

Committee Action:
Do Pass _____
Amend & Do Pass _____
Other _____

Senate Committee on Commerce and Labor

This measure may be considered for action during today's work session.

SENATE BILL 426

Revises provisions governing rent increases. (BDR 10-15)

Sponsored By: Senator Spearman and Assemblywoman Peters, et al.

Date Heard: April 7, 2023

Fiscal Notes: Effect on Local Government: No.

Effect on the State: Yes.

Senate Bill 426 amends the Residential Landlord and Tenant Act, regulating rent increases by landlords. The bill requires the Housing Division of the Department of Business and Industry to annually determine and publish the maximum cost-of-living increase for the calendar year. The annual cost-of-living increase must be equal to the percentage increase from September 30 of the current year to September 30 of the immediately preceding year, not exceeding five percent, using the Consumer Price Index for All Urban Consumers, U.S. City Average (All Items), as published by the United States Department of Labor. The Division is required to maintain such information on its Internet website for at least two years.

Further, the bill prohibits landlords from raising rent during the first year of tenancy and limits increases to the cost-of-living index published by the Division. Landlords are also prohibited from charging prospective tenants an amount that exceeds the maximum rent that the previous tenant was charged or the advertised amount for the dwelling unit. The bill authorizes a landlord to apply for exemption to the limitation of increasing the rent to obtain a fair return on their property under specific circumstances. In addition, tenants are authorized to seek legal relief if landlords violate these requirements. The bill also modifies the notice period for rent increases in periodic tenancies of one month or more, extending it to 90 days and requiring additional information in the notice. Finally, the Division is required to determine and publish the cost-of-living increase for calendar year 2024 on or before January 1, 2024.

Amendments:

Paul More, representing the Culinary Workers Union Local 226, proposes the following amendments (attached is a mock-up prepared by the Legal Division of the Legislative Counsel Bureau):

1. Add Sections 2.1 through 2.3 to provide definitions for various terms used throughout the bill.
2. Amend subsection 1 of Section 5 to require a landlord to first petition the Housing Division and receive approval before increasing rent above the limitation and revise the circumstances which justify the exemption to the limitation of increasing the rent to obtain a fair return on their property.
3. Add subsection 2 to Section 5 to require that the increase in rent for each additional occupant not exceed five percent for each additional occupant and the increase in rent for additional occupants applies only for the period of time the additional occupant resides in the dwelling.
4. Add subsection 3 to Section 5 to require that the increase in rent for capital improvements to a dwelling unit that primarily benefits the tenant not exceed 70 percent of the actual costs attributable to the dwelling unit, plus imputed financing.

5. Add subsection 4 to Section 5 to require that a tenant be provided a notice when their landlord submits an exemption to the rent increase limitations and the opportunity to present evidence in support of or opposition to the landlord's application.
6. Amend subsection 5 of Section 5 to require that the regulations adopted by the Division include an amortization schedule for capital improvements.
7. Add subsection 6 of Section 5 to define various terms used throughout the section.
8. Add Section 6.5 to prohibit retaliatory action by a landlord against a tenant for asserting or exercising rights, provide a rebuttable presumption that a landlord acted in retaliation under certain circumstances, authorize a tenant to use evidence that a landlord acted in retaliation as a defense, and authorize a tenant to bring a claim against a landlord for retaliation.
9. Delete Section 7, which made conforming changes to the placement of the definition of "cost of living increase" in Section 2.

MOCK-UP

PROPOSED AMENDMENT 3570 TO SENATE BILL NO. 426

PREPARED FOR SENATOR SPEARMAN
APRIL 7, 2023

PREPARED BY THE LEGAL DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of **green bold underlining** is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

Legislative Counsel's Digest:

Existing law establishes the Residential Landlord and Tenant Act, which governs rental agreements for dwelling units. The Act establishes certain obligations for landlords and tenants and provides certain remedies for landlords and tenants for violations of such obligations. (Chapter 118A of NRS) **Section 4** of this bill prohibits, with certain exceptions, a landlord from increasing the rent payable by an existing tenant during: (1) the first year of a tenancy; and (2) any 12-month period by an amount that exceeds the cost-of-living increase published by the Housing Division of the Department of Business and Industry pursuant to **section 3** of this bill. **Section 4** also prohibits, with certain exceptions, a landlord from charging a prospective tenant: (1) if there was an existing tenant in the dwelling unit, a rent that exceeds the maximum amount the landlord was authorized to charge the existing tenant; and (2) if there was not an existing tenant, a rent that exceeds the amount for which the dwelling unit was advertised. **Section 4** exempts certain dwelling units from these requirements.

Section 5 of this bill authorizes a landlord to apply to the Housing Division for an exemption from the cost-of-living increase in order for the landlord to obtain a fair and reasonable rate of return on his or her property if: (1) ~~the operating costs of the landlord exceed the amount the landlord would earn with the cost of living increase;~~ **an additional occupant is residing in the dwelling unit;** (2) the landlord makes capital improvements to a dwelling unit ~~that~~ **that primarily benefit the tenant;** (3) the landlord changes the amount and quality of housing services ~~offered by~~ **attributable to the landlord;** dwelling unit and included in the rental agreement; (4) the amount of property taxes owed by the landlord decreases or increases; (5) a landlord **or tenant makes uninsured repairs ;** ~~damage to a dwelling unit that was not caused by ordinary wear and tear;~~ or (6) any other ~~circumstance established by the Division by regulation.~~ **increase necessary to provide the landlord with a just and reasonable return pursuant to the Constitution of the**

United States. Section 5 further : (1) requires the landlord to provide the tenant with a written notice if the landlord applies to the Division for an exemption from the cost-of-living increase; (2) authorizes the tenant to present evidence to support or oppose the application of the landlord; (3) requires the Division to adopt regulations to ~~establish the application process.~~ carry out the provisions of section 5.

1 Section 6 of this bill provides that if a landlord violates the requirements of section 4,
2 the tenant may: (1) apply to the court for relief; (2) withhold any rent that becomes due
3 without incurring late fees, charges for notice or any other charge or authorized fee; and (3)
4 recover actual damages and receive an amount equal to 3 months' rent in addition to such
5 actual damages. Under existing law, the tenant is also entitled to certain other remedies if
6 the landlord engages in retaliatory conduct against the tenant for a good faith complaint
7 regarding a violation of section 4. (NRS 118A.510)

8 Existing law prohibits a landlord from taking certain retaliatory actions against a
9 tenant. (NRS 118A.510) Section 6.5 of this bill prohibits a landlord from retaliating
10 against a tenant by: (1) threatening to bring or bringing an action to recover
11 possession; (2) causing the tenant to quit the dwelling unit involuntarily; (3) serving
12 the tenant with notice to quit the dwelling unit; (4) serving the tenant with notice of a
13 termination of the tenancy; (5) decreasing any housing services; or (6) increasing rent.
14 Section 6 of this bill further: (1) provides a rebuttable presumption that a landlord
15 acted in retaliation under certain circumstances; (3) authorizes a tenant to use
16 evidence that a landlord acted in retaliation as a defense; and (4) authorizes a tenant
17 to bring a claim against a landlord for retaliation.

18 Section 3 requires the Housing Division to annually determine and publish on the
19 Internet website of the Division the maximum cost-of-living increase for that calendar year,
20 which must be equal to the increase in the Consumer Price Index for the region where the
21 dwelling unit is located and which must not exceed 5 percent. Section 3 also requires the
22 Division to: (1) issue a press release containing the maximum cost-of-living increase for
23 that calendar year; and (2) maintain on its Internet website information relating to each such
24 cost-of-living increase for at least 2 years.

25 ~~Section 2 of this bill defines "cost of living increase" to mean the cost of living~~
26 ~~increase published by the Division. Section 7 of this bill makes a conforming change to~~
27 ~~indicate the proper placement of section 2 in the Nevada Revised Statutes.~~ Sections 2 to
28 2.9 of this bill define terms related to increases in rent.

29 Existing law prohibits a landlord from increasing the rent payable by a tenant unless the
30 landlord serves the tenant with written notice of the increase: (1) for a periodic tenancy of 1
31 month or more, 60 days in advance of the first rental payment to be increased; or (2) for a
32 periodic tenancy of less than 1 month, 30 days in advance of the first rental payment to be
33 increased. (NRS 118A.300) Section 8 of this bill instead requires such notice for a periodic
34 tenancy of 1 month or more to be served 90 days in advance of the first rental payment to
35 be increased. Section 8 further requires that such notice include: (1) the amount of the
36 increase; (2) the total amount of the new rent; (3) if the increase exceeds the cost-of-living
37 increase, the reason the landlord is exempt from the requirements of section 4; and (4) the
38 date on which the increase becomes effective.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

39 Section 1. Chapter 118A of NRS is hereby amended by adding
40 thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

41 Sec. 1.5. As used in sections 1.5 to 6, inclusive, and section 9 of
42 this act, unless the context otherwise requires, the words and terms

1 defined in sections 2 to 2.9, inclusive, have the meanings ascribed to
2 them in those sections.

3 Sec. 2. "Cost-of-living increase" means the cost-of-living increase
4 published by the Housing Division of the Department of Business and
5 Industry pursuant to section 3 of this act.

6 Sec. 2.1. "Dwelling unit" means any unit of real property,
7 including the land appurtenant to such unit that is rented or made
8 available to rent for residential use or occupancy, including, without
9 limitation, any housing services, common areas and recreational
10 facilities held out by the landlord for use by the tenant.

11 Sec. 2.3. "Housing services" means services connected with the use
12 or occupancy of a dwelling unit, including, without limitation:

- 13 1. Utilities, such as light, heat, water and telephone services;
- 14 2. Ordinary repairs, replacements and maintenance, including,
15 without limitation, painting;
- 16 3. Elevator services;
- 17 4. Laundry facilities and privileges;
- 18 5. Recreational facilities;
- 19 6. Janitorial services;
- 20 7. The provision of a resident manager;
- 21 8. Refuse removal;
- 22 9. Furnishings;
- 23 10. Food services;
- 24 11. Parking; and
- 25 12. Any other benefits, privileges or facilities.

26 Sec. 2.4. "Landlord" means a person who provides a dwelling unit
27 for occupancy by another pursuant to a rental agreement. This term
28 includes, without limitation:

- 29 1. An owner of record;
- 30 2. A lessor;
- 31 3. A sublessor;
- 32 4. Any other person entitled to receive rent for the use or occupancy
33 of any dwelling unit;
- 34 5. An agent of the landlord;
- 35 6. A representative of the landlord; or
- 36 7. Any successor of the foregoing.

37 Sec. 2.6. "Rent" means the consideration demanded or received for
38 or in connection with the use or occupancy of a dwelling unit and
39 housing services, including, without limitation, any fee, deposit, bonus,
40 benefit, gratuity, money or the fair market value of goods and services
41 provided to the landlord under the rental agreement.

42 Sec. 2.8. "Rental agreement" means a lease or contract, oral,
43 written or implied, between the landlord and a tenant for the use and
44 occupancy of a dwelling unit.

1 **Sec. 2.9. "Tenant" means a person entitled under a rental**
2 **agreement to occupy a dwelling unit including, without limitation:**

3 **1. A renter;**

4 **2. A tenant;**

5 **3. A subtenant;**

6 **4. A lessee or sublessees;**

7 **5. A successor to the interest of a tenant;**

8 **6. A group of tenants, subtenants, lessees, or sublessees of a**
9 **dwelling unit; or**

10 **7. Any other person entitled to the use or occupancy of a dwelling**
11 **unit.**

12 **Sec. 3. 1. The Housing Division of the Department of Business**
13 **and Industry shall determine a maximum cost-of-living increase for each**
14 **calendar year which must, except as otherwise provided in this**
15 **subsection, be equal to the percentage increase from September 30 of the**
16 **current year to September 30 of the immediately preceding year using**
17 **the Consumer Price Index for All Urban Consumers, U.S. City Average**
18 **(All Items) as published by the United States Department of Labor, for**
19 **the region where the dwelling unit is located. The cost-of-living increase**
20 **must not exceed 5 percent.**

21 **2. On or before January 1 of each year, the Housing Division shall**
22 **publish on the Internet website of the Housing Division the maximum**
23 **cost-of-living increase for that calendar year and issue a press release**
24 **containing the maximum cost-of-living increase for that calendar year.**

25 **3. The Housing Division shall maintain the information for each**
26 **cost-of-living increase on the Internet website of the Housing Division**
27 **for at least 2 years.**

28 **Sec. 4. 1. The Legislature hereby finds and declares that the State**
29 **of Nevada is experiencing a housing crisis because of the lack of**
30 **affordable housing and excessive increases in the rent charged for rental**
31 **housing in this State.**

32 **2. Except as otherwise provided in subsection 3 and section 5 of this**
33 **act, and in addition to the requirements of NRS 118A.300, a landlord**
34 **shall not:**

35 **(a) Increase the rent payable by an existing tenant:**

36 **(1) During the first year of tenancy; and**

37 **(2) During any 12-month period by an amount that exceeds the**
38 **cost-of-living increase for the region where the dwelling unit is located,**
39 **as published by the Housing Division of the Department of Business and**
40 **Industry pursuant to section 3 of this act, that is in effect at the time the**
41 **landlord provides written notice of the increase in rent pursuant to NRS**
42 **118A.300; and**

43 **(b) For a prospective tenant:**

1 (1) *If there was an existing tenant in the dwelling unit, charge a*
2 *rent that exceeds the maximum amount the landlord was authorized to*
3 *charge to an existing tenant in accordance with paragraph (a); and*

4 (2) *If there was not an existing tenant in the dwelling unit, charge*
5 *a rent that exceeds the amount for which the dwelling unit was*
6 *advertised.*

7 3. *The provisions of this section do not apply to a dwelling unit:*

8 (a) *Owned by a governmental agency;*

9 (b) *In a structure that contains living quarters occupied or intended*
10 *to be occupied by not more than four families living independently of*
11 *each other if the owner actually maintains and occupies one of the living*
12 *quarters as his or her primary residence;*

13 (c) *Issued a certificate of occupancy on or after January 1, 2024, if*
14 *less than 15 years have passed since the date the certificate was issued;*

15 (d) *Where the landlord is providing reduced rent to the tenant*
16 *through a federal, state or local program; or*

17 (e) *That is the only dwelling unit owned by the landlord in this State.*

18 4. *Nothing in this section shall be construed as creating a right to*
19 *increase rent.*

20 **Sec. 5. 1. A landlord may apply to the Housing Division of the**
21 **Department of Business and Industry for an exemption from the**
22 **requirements of subsection 2 of section 4 of this act if an exemption is**
23 **necessary for the landlord to obtain a fair and reasonable rate of return**
24 **on his or her property . ~~¶~~ A landlord may not increase rent above the**
25 **cost-of-living increase without obtaining an exemption from Housing**
26 **Division to increase rent. A landlord may apply for exemption under one**
27 **or more of the following circumstances:**

28 (a) ~~*The operating costs of the landlord exceed the amount the*~~
29 ~~*landlord would earn with the cost of living increase established pursuant*~~
30 ~~*to subsection 2 of section 3 of this act;*~~ **An additional occupant is**
31 **residing in the dwelling unit;**

32 (b) *The landlord makes capital improvements to a dwelling unit ~~¶~~*
33 **that primarily benefit the tenant;**

34 (c) *The landlord changes the amount and quality of housing services*
35 ~~*offered by the landlord;*~~ **attributable to the dwelling unit and included**
36 **in the rental agreement;**

37 (d) *The amount of property taxes owed by the landlord decreases or*
38 *increases;*

39 (e) *The landlord or tenant makes uninsured repairs ; ~~damage to a~~*
40 ~~*dwelling unit that was not caused by ordinary wear and tear;*~~ **or**

41 (f) ~~*Any other circumstance established by the Division in*~~
42 ~~*accordance with the regulations adopted pursuant to subsection 2.*~~ **increase necessary to provide the landlord with a just and reasonable**
43 **return pursuant to the Constitution of the United States.**
44

1 2. An increase in rent granted pursuant to paragraph (a) of
2 subsection 1, must not exceed 5 percent for each additional occupant. An
3 increase in rent for an additional occupant is applicable only for the
4 period of time the additional occupant resides in the dwelling unit.

5 3. An increase in rent granted pursuant to paragraph (b) of
6 subsection 1, must not exceed 70 percent of the actual costs attributable
7 to the dwelling unit, plus imputed financing. The cost of a capital
8 improvement must be amortized over the useful life of the capital
9 improvement as set forth by the Division on an amortization schedule.

10 4. The landlord shall serve the tenant with a written notice if the
11 landlord applies to the Division for an exemption pursuant to subsection
12 1. The tenant may present evidence in support of or in opposition to the
13 application of the landlord.

14 5. The Division shall adopt regulations to carry out the provisions
15 of ~~subsection 1.~~ of this section. The regulations must include an
16 amortization schedule for capital improvements pursuant to subsection
17 3.

18 6. As used in this section:

19 (a) "Additional occupant" means an occupant of a dwelling unit
20 whose occupancy of the dwelling unit increases the total number of
21 occupants above the number of occupants of which the landlord has
22 knowledge. This term does not include a spouse, registered domestic
23 partner, parent, grandparent, child, adopted child, foster child,
24 grandchild, caretaker or attendant that is required for a reasonable
25 accommodation for an occupant with a disability.

26 (b) "Capital improvement" means an improvement to a dwelling unit
27 or a common area accessible to a tenant that materially adds to the value
28 of the property and appreciably prolongs the useful life of the dwelling
29 unit. This term does not include:

30 (1) The correction of serious code violations that were not created
31 by the tenant;

32 (2) Improvements that bring the dwelling unit up to current
33 building or housing codes;

34 (3) Improvements or repairs required because of deferred
35 maintenance;

36 (4) Improvements that are substantially greater in character or
37 quality than existing improvements, unless approved in writing by the
38 tenant after disclosure of any related increase in rent; and

39 (5) Costs for which a landlord is reimbursed by a third-party that
40 is not the tenant, including, without limitation, insurance, court awarded
41 damages, subsidies, tax credits, and grants.

42 (c) "Uninsured repair" means a repair performed by a landlord or
43 tenant to a dwelling unit or to the common area of the property or
44 structure containing a dwelling unit:

1 (1) Which is performed for compliance with any federal, state or
2 local law;

3 (2) To repair damage that is not the result of normal wear and
4 tear; or

5 (3) To repair damage resulting from a fire, earthquake, or other
6 casualty or natural disaster, to the extent such repair is not reimbursed
7 by insurance proceeds or other third party reimbursement, including,
8 without limitation, court awarded damages, subsidies, tax credits and
9 grants.

10 **Sec. 6. If the landlord increases or charges rent to a tenant in**
11 **violation of the provisions of section 4 of this act, the tenant may, in**
12 **addition to any other remedy:**

13 **1. Apply to the court for such relief as the court deems proper under**
14 **the circumstances;**

15 **2. Withhold any rent that becomes due without incurring late fees,**
16 **charges for notice or any other charge or fee authorized by this chapter**
17 **or the rental agreement until the landlord has remedied, or has**
18 **attempted in good faith to remedy, the failure; and**

19 **3. Recover actual damages and receive an amount equal to 3**
20 **months' rent in addition to actual damages.**

21 **Sec. 6.5. 1. If a tenant exerts any right under sections 4, 5 or 6 of**
22 **this act, the landlord may not, in retaliation:**

23 **(a) Threaten to bring or bring an action to recover possession;**

24 **(b) Cause the tenant to quit the dwelling unit involuntarily;**

25 **(c) Serve the tenant with notice to quit the dwelling unit;**

26 **(d) Serve the tenant with notice of a termination of the tenancy;**

27 **(e) Decrease any housing services; or**

28 **(f) Increase rent.**

29 **2. A showing by the tenant that the tenant complained in good faith**
30 **to the landlord or a law enforcement agency of a violation of this section**
31 **in the 6 months immediately preceding the alleged retaliatory act creates**
32 **a rebuttable presumption that the action was retaliatory.**

33 **3. Regardless of the applicability of the presumption created in**
34 **subsection 2, evidence that the landlord acted in retaliation:**

35 **(a) Is a defense in any retaliatory action by a landlord for possession;**
36 **or**

37 **(b) Is a basis for an action by the tenant to recover actual damages,**
38 **any punitive damages that the facts may warrant or obtain injunctive**
39 **relief.**

40 **Sec. 7. ~~NRS 118A.020 is hereby amended to read as follows:~~**

41 **~~118A.020 As used in this chapter, unless the context otherwise~~**
42 **~~requires, the terms defined in NRS 118A.030 to 118A.175, inclusive, and~~**
43 **~~section 2 of this act have the meanings ascribed to them in those sections.~~**

44 **(Deleted by amendment.)**

1 **Sec. 8.** NRS 118A.300 is hereby amended to read as follows:

2 118A.300 The landlord may not increase the rent payable by a tenant
3 unless the landlord serves the tenant with a written notice, ~~60~~ 90 days or,
4 in the case of any periodic tenancy of less than 1 month, 30 days in
5 advance of the first rental payment to be increased, advising the tenant of :

- 6 1. *The amount of the increase ~~+~~;*
7 2. *The total amount of the new rent;*
8 3. *If the increase exceeds the cost-of-living increase, the reason the*
9 *landlord is exempt from the provisions of section 4 of this act; and*
10 4. *The date on which the increase becomes effective.*

11 **Sec. 9.** On or before January 1, 2024, the Housing Division of the
12 Department of Business and Industry shall, in accordance with section 3 of
13 this act:

- 14 1. Determine the maximum cost-of-living increase for calendar year
15 2024;
16 2. Publish on the Internet website of the Housing Division the
17 maximum cost-of-living increase for calendar year 2024; and
18 3. Issue a press release containing the maximum cost-of-living
19 increase for calendar year 2024.

20 **Sec. 10.** 1. This section and section 9 of this act become effective
21 upon passage and approval.

22 2. Sections 1 to 8, inclusive, of this act become effective:

23 (a) Upon passage and approval for the purpose of adopting any
24 regulations and performing any other preparatory administrative tasks that
25 are necessary to carry out the provisions of this act; and

26 (b) On July 1, 2024, for all other purposes.