

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

Senate Committee on Judiciary

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

SENATE BILL 335

Revises provisions regarding real property. (BDR 3-883)

Sponsored By: Senator Ohrenschall
Date Heard: April 4, 2023
Fiscal Notes: Effect on Local Government: No.
Effect on the State: No.

Senate Bill 335 repeals current provisions governing the summary eviction process and sets forth new provisions governing the process for both residential and commercial tenants in instances where they have defaulted on their rent and when being evicted for other reasons. Among other provisions, this bill also requires a landlord to begin the eviction process by filing an affidavit with the court. The bill revises provisions governing when and how a sheriff or constable is to accept and act on an eviction notice and revises timelines for the process including when a notice must be posted and how after that posting a tenant is to be removed from the premises. The bill sets forth guidelines for a tenant to contest an eviction and for a mediation process. It also addresses applications for rental assistance and provides that a court is to dismiss an eviction if rental assistance is granted during the eviction process.

Amendments: There is an amendment offered by Senator Ohrenschall in consultation with Jonathan Norman of Legal Aid of Southern Nevada. This amendment:

- Removes Sections 2-8 of the bill.
- Inserts language enabling a justice court to create and eviction diversion court and providing guidelines for participation.
- Removes references to eviction mediation in Section 9.
- Adds language clarifying what constitutes a pending application for rental assistance and setting a time limit for when such must be filed.
- Requires an agency in receipt of a rental assistance application inform involved parties when the application is approved or denied.
- Gives the court power to adjudicate issues unrelated to rent and award up to \$1,000 in the case of a landlord raising issues as a pretext.
- Clarifies when a rental assistance defense is in bad faith.
- Provides that a tenant may be evicted if they cannot pay the amount owed in excess of any rental assistance received.

Friendly amendment to SB 335.

April 11, 2023.

1. Remove sections 2-8.
2. Add language enabling a justice court to create an eviction diversion court
 - a. 1. A justice court may establish a program for the diversion of an unlawful detainer action where the landlord is seeking the supplemental remedy of a summary eviction pursuant to any residential unlawful detainer action contained within this Chapter. The assignment to such an eviction diversion program may, at the court's discretion and capacity, include cases where the tenant is eligible for specific identified social service programs designed to satisfy the full delinquency in rent and provide additional wrap-around services to the tenant to avoid future summary eviction actions.
 - b. 2. Assignment to such an eviction diversion program must:
 - (a) Stay a pending summary eviction action for not more than sixty days from the date of the filing of the tenant's affidavit pursuant to NRS 40.253(3)(b)(1); and
 - (b) Extend the time for the tenant to make payment of rent or surrender the premises from seven judicial days to the end of the sixty day stay of the proceeding. During the extension of the notice period the provisions of NRS 40.253(11) apply.
3. Remove references to eviction mediation in Section 9, subsection 3 (a) and subsection 4 (a)
4. Add language: A pending application is one submitted in good faith, and does not include an application submitted but not being actively pursued, including tenant failing to provide additional documentation requested by the government agency processing the application.
5. Add language: rental assistance application must be filed prior to the end of the period the tenant has to file an answer and must be raised as an affirmative defense in the answer, and provide proof to the court of pending application and date submitted.
6. Add language: Requiring the agency in receipt of rental assistance application to make best efforts to inform the Court, LL, and T when the application is, approved, or denied.
7. NRS 40.2516 make this stronger, "material provision of the lease" And give court the power to hear cases and adjudicate issues that are unrelated to rent and if they find issues were raised by LL as a pretext then allow court to award up to \$1,000 as an abatement to any rent due.
8. If tenant receives a valid notice under a provision other than non-payment, and stops paying rent in order to file a rental assistance application and avail themselves of pending rental assistance defense then the defense is bad faith, unless the court finds the original notice was a pretext.
9. Add language: Rental assistance that does not cover the amount owed by the tenant (and the tenant cannot cure the remainder), the tenant may be evicted.