

Committee Action:  
Do Pass \_\_\_\_\_  
Amend & Do Pass \_\_\_\_\_  
Other \_\_\_\_\_

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**Senate Committee on Commerce and Labor**

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

**ASSEMBLY BILL 218 (R1)**

**Revises provisions governing landlords and tenants. (BDR 10-136)**

**Sponsored By:** Assemblywoman Considine

**Date Heard:** May 8, 2023

**Fiscal Notes:** Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.  
Effect on the State: Yes.

Assembly Bill 218 requires that, in each place where a landlord lists the amount of rent due under a rental agreement and in any reference to the amount of rent due in a written rental agreement, the rent must be denoted as a single figure representing the total amount of the periodic rent that includes the amount of any fixed, mandatory fee to be charged to the tenant in addition to the base rent. A landlord is prohibited from charging a tenant an amount for periodic rent that exceeds that amount of rent due under the written rental agreement. The measure makes a violation of the provisions a deceptive trade practice.

The measure prohibits a landlord, who allows a tenant to pay rent or any other fee or charge through an Internet website or online portal, from charging the tenant a fee to make a payment by these means in an amount that exceeds the amount of any fee charged by the operator of the Internet website or online portal. Additionally, any such fee must be separately identified in a written rental agreement.

**Amendments:**

Assemblywoman Considine proposes the following amendments (attached):

1. Amend subsection 1 of Section 3 to replace the provisions that made a violation of certain provisions a deceptive trade practice and instead provide that a person aggrieved by a violation of certain provisions concerning the information that must be included in a rental agreement or the prohibition against a landlord to not charge an amount for periodic rent that exceeds the amount denoted in a rental agreement is authorized to bring an action for consumer fraud.
2. Amend subsection 2 of Section 3 to add two new paragraphs to require the court to additionally award a prevailing tenant: (1) monetary damages for deceptive behavior in the amount of \$1,000 for each violation; and (2) treble damages if the conduct was willful.

## Amendment to AB 218

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. (6) language in *teal bold italic* is new language in this amendment and (7) and ~~maroon strikethrough~~ is language to be removed in this amendment.

### Proposed Amendment:

#### Section 3(1):

~~1. A violation of Section 4 subsection 6 or 7 of this bill or NRS 118A.200 constitutes a deceptive trade practice for the purposes of NRS 5 598.0903 to 598.0999, inclusive. A tenant injured by such a violation may bring a civil action in any court of competent jurisdiction for such violation.~~

~~2. A person who violates Section 4 subsection 6 or 7 of this bill is not subject to a criminal penalty set forth in subsection 3 of NRS 598.0999.~~

~~3.~~

1. A person aggrieved by a violation of Section 4 subsection 6 or 7 of this bill or NRS 118A.200 may bring an action for consumer fraud pursuant to NRS 41.600.

*2. If a tenant prevails in an action brought pursuant to subsection 1, the court shall award the tenant:*

*(a) Any damages the tenant has sustained;*

*(b) Any equitable relief that the court deems appropriate; and*

*(c) The tenant's costs in the action and reasonable attorney's fees.*

(d) Monetary damages for deceptive behavior in the amount of \$1,000 for each violation; and

(e) Treble damages if the conduct was willful.

### Purpose of Assemblywoman Considine's Proposed Amendment:

The purpose of this amendment is to clarify that the violation of Section 4(6) or (7) allows for a private right of action for a deceptive trade practice and consumer fraud. The intention is not to include enforcement by the Attorney General's office.

### Purpose of this Proposed Amendment to AB218 and Assemblywoman Considine's Proposed Amendment:

The purpose of this amendment is to ensure that private individuals have an action for consumer fraud pursuant to NRS 41.600. The Attorney General's Office is the primary enforcer of NRS chapter 598, and as such is obligated to review, and potentially take action, on complaints for violations of NRS chapter 598. To ensure that the intent of the bill through this amendment to not require the Attorney General's Office to review and potentially take enforcement action, thereby alleviating the need for a fiscal note, it is necessary to remove paragraph 1 from Section 3 of AB218. Once removed, it is no longer necessary to also have paragraph 2 as proposed in this amendment. Failure to remove paragraph 1 of Section 3 will necessitate a fiscal note as it currently requires the Attorney General's Office to review and potentially take enforcement action.