

SENATE BILL NO. 151—SENATORS RATTI, CANCELA, SPEARMAN,
PARKS; BROOKS, HARRIS, OHRENSCHALL AND WOODHOUSE

FEBRUARY 12, 2019

Referred to Committee on Judiciary

SUMMARY—Revises provisions related to certain proceedings concerning property. (BDR 3-516)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to property; revising certain provisions relating to actions for summary eviction; revising provisions governing notices to surrender possession of real property or a mobile home; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides for a summary eviction procedure when the tenant of any dwelling, apartment, mobile home, recreational vehicle or commercial premises with periodic rent due by the month or a shorter period defaults in the payment of the rent. Existing law requires the landlord or the landlord’s agent to serve a notice in writing informing the tenant that he or she must pay the rent or surrender the premises at or before the fifth full day following the day of service. (NRS 40.253) **Section 1** of this bill increases the period of time that a tenant has to act after receiving such notice from 5 full days to 10 judicial days.

Existing law authorizes a court, in an action for summary eviction, to order the removal of a tenant in default for rental payments. Existing law requires a sheriff or constable to remove such a tenant within 24 hours after the court issues such an order. (NRS 40.253) **Section 1** increases the period of time before the removal of the tenant from within 24 hours after the court order to not earlier than 48 hours after the court order. **Section 5** of this bill makes conforming changes for the summary eviction of an unlawful or unauthorized occupant of certain rental properties.

Existing law authorizes a landlord to utilize procedures for summary eviction when a tenant of a dwelling unit, part of a low-rent housing program operated by a public housing authority, a mobile home or a recreational vehicle is guilty of certain unlawful detainers. (NRS 40.254) **Section 2** of this bill eliminates the ability of a landlord of a low-rent housing program operated by a public housing authority to utilize such procedures for summary eviction.



23 Existing law provides that a person who holds over and continues in possession
24 of real property or a mobile home which has been foreclosed or sold under certain
25 circumstances may be removed pursuant to certain proceedings after a 3-day notice
26 to surrender has been served. (NRS 40.255) **Section 3** of this bill increases the
27 period of time provided by such a notice to surrender to 30 days.

28 Existing law requires a tenant to be served with certain notices to surrender.
29 Existing law authorizes such service: (1) by delivering a copy of the notice to the
30 tenant personally, in the presence of a witness, or by a sheriff, constable or certain
31 other persons; (2) by leaving the notice with a person who meets certain
32 qualifications at the place of residence or business of the tenant; or (3) by posting
33 the notice on the rental property, delivering the notice to the person living there, if
34 possible, and mailing a copy to the tenant. (NRS 40.280) **Section 4** of this bill
35 removes the existing statutory scheme for service of notices to surrender and
36 instead requires such notices to be served pursuant to the Nevada Rules of Civil
37 Procedure or the Justice Court Rules of Civil Procedure. **Sections 6 and 7** of this
38 bill make conforming changes.

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

1 **Section 1.** NRS 40.253 is hereby amended to read as follows:
2 40.253 1. Except as otherwise provided in subsection 10, in
3 addition to the remedy provided in NRS 40.2512 and 40.290 to
4 40.420, inclusive, when the tenant of any dwelling, apartment,
5 mobile home, recreational vehicle or commercial premises with
6 periodic rent reserved by the month or any shorter period is in
7 default in payment of the rent, the landlord or the landlord's agent,
8 unless otherwise agreed in writing, may serve or have served a
9 notice in writing, requiring in the alternative the payment of the rent
10 or the surrender of the premises:

11 (a) At or before noon of the ~~[fifth full]~~ *10th judicial* day
12 following the day of service; or

13 (b) If the landlord chooses not to proceed in the manner set forth
14 in paragraph (a) and the rent is reserved by a period of 1 week or
15 less and the tenancy has not continued for more than 45 days, at or
16 before noon of the fourth full day following the day of service.

17 ↪ As used in this subsection, "day of service" means the day the
18 landlord or the landlord's agent personally delivers the notice to the
19 tenant. If personal service was not so delivered, the "day of service"
20 means the day the notice is delivered, after posting and mailing
21 pursuant to subsection 2, to the sheriff or constable for service if the
22 request for service is made before noon. If the request for service by
23 the sheriff or constable is made after noon, the "day of service" shall
24 be deemed to be the day next following the day that the request is
25 made for service by the sheriff or constable.

26 2. A landlord or the landlord's agent who serves a notice to a
27 tenant pursuant to paragraph (b) of subsection 1 shall attempt to



1 deliver the notice in person in the manner set forth in ~~paragraph (a)~~
2 ~~of~~ subsection 1 of NRS 40.280. If the notice cannot be delivered in
3 person, the landlord or the landlord's agent:

4 (a) Shall post a copy of the notice in a conspicuous place on the
5 premises and mail the notice by overnight mail; and

6 (b) After the notice has been posted and mailed, may deliver the
7 notice to the sheriff or constable for service in the manner set forth
8 in subsection 1 of NRS 40.280. The sheriff or constable shall not
9 accept the notice for service unless it is accompanied by written
10 evidence, signed by the tenant when the tenant took possession of
11 the premises, that the landlord or the landlord's agent informed the
12 tenant of the provisions of this section which set forth the lawful
13 procedures for eviction from a short-term tenancy. Upon
14 acceptance, the sheriff or constable shall serve the notice within 48
15 hours after the request for service was made by the landlord or the
16 landlord's agent.

17 3. A notice served pursuant to subsection 1 or 2 must:

18 (a) Identify the court that has jurisdiction over the matter; and

19 (b) Advise the tenant:

20 (1) Of the tenant's right to contest the matter by filing, within
21 the time specified in subsection 1 for the payment of the rent or
22 surrender of the premises, an affidavit with the court that has
23 jurisdiction over the matter stating that the tenant has tendered
24 payment or is not in default in the payment of the rent;

25 (2) That if the court determines that the tenant is guilty of an
26 unlawful detainer, the court may issue a summary order for removal
27 of the tenant or an order providing for the nonadmittance of the
28 tenant, directing the sheriff or constable of the county to remove
29 the tenant ~~[within 24]~~ *not earlier than 48* hours after receipt of the
30 order; and

31 (3) That, pursuant to NRS 118A.390, a tenant may seek relief
32 if a landlord unlawfully removes the tenant from the premises or
33 excludes the tenant by blocking or attempting to block the tenant's
34 entry upon the premises or willfully interrupts or causes or permits
35 the interruption of an essential service required by the rental
36 agreement or chapter 118A of NRS.

37 4. If the tenant files such an affidavit at or before the time
38 stated in the notice, the landlord or the landlord's agent, after receipt
39 of a file-stamped copy of the affidavit which was filed, shall not
40 provide for the nonadmittance of the tenant to the premises by
41 locking or otherwise.

42 5. Upon noncompliance with the notice:

43 (a) The landlord or the landlord's agent may apply by affidavit
44 of complaint for eviction to the justice court of the township in
45 which the dwelling, apartment, mobile home, recreational vehicle or



1 commercial premises are located or to the district court of the
2 county in which the dwelling, apartment, mobile home, recreational
3 vehicle or commercial premises are located, whichever has
4 jurisdiction over the matter. The court may thereupon issue an order
5 directing the sheriff or constable of the county to remove the tenant
6 ~~[within 24]~~ **not earlier than 48** hours after receipt of the order. The
7 affidavit must state or contain:

- 8 (1) The date the tenancy commenced.
- 9 (2) The amount of periodic rent reserved.
- 10 (3) The amounts of any cleaning, security or rent deposits
11 paid in advance, in excess of the first month's rent, by the tenant.
- 12 (4) The date the rental payments became delinquent.
- 13 (5) The length of time the tenant has remained in possession
14 without paying rent.
- 15 (6) The amount of rent claimed due and delinquent.
- 16 (7) A statement that the written notice was served on the
17 tenant in accordance with NRS 40.280.
- 18 (8) A copy of the written notice served on the tenant.
- 19 (9) A copy of the signed written rental agreement, if any.

20 (b) Except when the tenant has timely filed the affidavit
21 described in subsection 3 and a file-stamped copy of it has been
22 received by the landlord or the landlord's agent, and except when
23 the landlord is prohibited pursuant to NRS 118A.480, the landlord
24 or the landlord's agent may, in a peaceable manner, provide for the
25 nonadmittance of the tenant to the premises by locking or otherwise.

26 6. Upon the filing by the tenant of the affidavit permitted in
27 subsection 3, regardless of the information contained in the
28 affidavit, and the filing by the landlord of the affidavit permitted by
29 subsection 5, the justice court or the district court shall hold a
30 hearing, after service of notice of the hearing upon the parties, to
31 determine the truthfulness and sufficiency of any affidavit or notice
32 provided for in this section. If the court determines that there is no
33 legal defense as to the alleged unlawful detainer and the tenant is
34 guilty of an unlawful detainer, the court may issue a summary order
35 for removal of the tenant or an order providing for the
36 nonadmittance of the tenant. If the court determines that there is a
37 legal defense as to the alleged unlawful detainer, the court shall
38 refuse to grant either party any relief, and, except as otherwise
39 provided in this subsection, shall require that any further
40 proceedings be conducted pursuant to NRS 40.290 to 40.420,
41 inclusive. The issuance of a summary order for removal of the
42 tenant does not preclude an action by the tenant for any damages or
43 other relief to which the tenant may be entitled. If the alleged
44 unlawful detainer was based upon subsection 5 of NRS 40.2514, the
45 refusal by the court to grant relief does not preclude the landlord



1 thereafter from pursuing an action for unlawful detainer in
2 accordance with NRS 40.251.

3 7. The tenant may, upon payment of the appropriate fees
4 relating to the filing and service of a motion, file a motion with the
5 court, on a form provided by the clerk of the court, to dispute the
6 amount of the costs, if any, claimed by the landlord pursuant to NRS
7 118A.460 or 118C.230 for the inventory, moving and storage of
8 personal property left on the premises. The motion must be filed
9 within 20 days after the summary order for removal of the tenant or
10 the abandonment of the premises by the tenant, or within 20 days
11 after:

12 (a) The tenant has vacated or been removed from the premises;
13 and

14 (b) A copy of those charges has been requested by or provided
15 to the tenant,
16 ↪ whichever is later.

17 8. Upon the filing of a motion pursuant to subsection 7, the
18 court shall schedule a hearing on the motion. The hearing must be
19 held within 10 days after the filing of the motion. The court shall
20 affix the date of the hearing to the motion and order a copy served
21 upon the landlord by the sheriff, constable or other process server.
22 At the hearing, the court may:

23 (a) Determine the costs, if any, claimed by the landlord pursuant
24 to NRS 118A.460 or 118C.230 and any accumulating daily costs;
25 and

26 (b) Order the release of the tenant's property upon the payment
27 of the charges determined to be due or if no charges are determined
28 to be due.

29 9. A landlord shall not refuse to accept rent from a tenant that
30 is submitted after the landlord or the landlord's agent has served or
31 had served a notice pursuant to subsection 1 if the refusal is based
32 on the fact that the tenant has not paid collection fees, attorney's
33 fees or other costs other than rent, a reasonable charge for late
34 payments of rent or dishonored checks, or a security. As used in this
35 subsection, "security" has the meaning ascribed to it in
36 NRS 118A.240.

37 10. This section does not apply to the tenant of a mobile home
38 lot in a mobile home park or to the tenant of a recreational vehicle
39 lot in an area of a mobile home park in this State other than an area
40 designated as a recreational vehicle lot pursuant to the provisions of
41 subsection 8 of NRS 40.215.

42 **Sec. 2.** NRS 40.254 is hereby amended to read as follows:

43 40.254 1. Except as otherwise provided by specific statute, in
44 addition to the remedy provided in NRS 40.290 to 40.420, inclusive,
45 when the tenant of a dwelling unit, ~~part of a low rent housing~~



1 ~~program operated by a public housing authority,]~~ a mobile home or
2 a recreational vehicle is guilty of an unlawful detainer pursuant to
3 NRS 40.250, 40.251, 40.2514 or 40.2516, the landlord or the
4 landlord's agent may utilize the summary procedures for eviction as
5 provided in NRS 40.253 except that written notice to surrender the
6 premises must:

7 (a) Be given to the tenant in accordance with the provisions of
8 NRS 40.280;

9 (b) Advise the tenant of the court that has jurisdiction over the
10 matter; and

11 (c) Advise the tenant of the tenant's right to:

12 (1) Contest the notice by filing before the court's close of
13 business on the fifth judicial day after the day of service of the
14 notice an affidavit with the court that has jurisdiction over the matter
15 stating the reasons why the tenant is not guilty of an unlawful
16 detainer; or

17 (2) Request that the court stay the execution of the order for
18 removal of the tenant or order providing for nonadmittance of the
19 tenant for a period not exceeding 10 days pursuant to subsection 2
20 of NRS 70.010, stating the reasons why such a stay is warranted.

21 2. The affidavit of the landlord or the landlord's agent
22 submitted to the justice court or the district court must state or
23 contain:

24 (a) The date when the tenancy commenced, the term of the
25 tenancy and, if any, a copy of the rental agreement. If the rental
26 agreement has been lost or destroyed, the landlord or the landlord's
27 agent may attach an affidavit or declaration, signed under penalty of
28 perjury, stating such loss or destruction.

29 (b) The date when the tenancy or rental agreement allegedly
30 terminated.

31 (c) The date when written notice to surrender was given to the
32 tenant pursuant to the provisions of NRS 40.251, 40.2514 or
33 40.2516, together with any facts supporting the notice.

34 (d) The date when the written notice was given, a copy of the
35 notice and a statement that notice was served in accordance with
36 NRS 40.280 and, if applicable, a copy of the notice of change of
37 ownership served on the tenant pursuant to NRS 40.255 if the
38 property has been purchased as a residential foreclosure.

39 (e) A statement that the claim for relief was authorized by law.

40 3. If the tenant is found guilty of unlawful detainer as a result
41 of the tenant's violation of any of the provisions of NRS 453.011 to
42 453.552, inclusive, except NRS 453.336, the landlord is entitled to
43 be awarded any reasonable attorney's fees incurred by the landlord
44 or the landlord's agent as a result of a hearing, if any, held pursuant



1 to subsection 6 of NRS 40.253 wherein the tenant contested the
2 eviction.

3 **Sec. 3.** NRS 40.255 is hereby amended to read as follows:

4 40.255 1. Except as otherwise provided in subsections 2 and
5 7, in any of the following cases, a person who holds over and
6 continues in possession of real property or a mobile home after a ~~13-~~
7 ~~day~~ 30-day written notice to surrender has been served upon the
8 person may be removed as prescribed in NRS 40.290 to 40.420,
9 inclusive:

10 (a) Where the property or mobile home has been sold under an
11 execution against the person, or against another person under whom
12 the person claims, and the title under the sale has been perfected;

13 (b) Where the property or mobile home has been sold upon the
14 foreclosure of a mortgage, or under an express power of sale
15 contained therein, executed by the person, or by another person
16 under whom the person claims, and the title under the sale has been
17 perfected;

18 (c) Where the property or mobile home has been sold under a
19 power of sale granted by NRS 107.080 to the trustee of a deed of
20 trust executed by the person, or by another person under whom the
21 person claims, and the title under such sale has been perfected; or

22 (d) Where the property or mobile home has been sold by the
23 person, or by another person under whom the person claims, and the
24 title under the sale has been perfected.

25 2. If the property has been sold as a residential foreclosure, a
26 tenant or subtenant in actual occupation of the premises, other than a
27 person whose name appears on the mortgage or deed, who holds
28 over and continues in possession of real property or a mobile home
29 in any of the cases described in paragraph (b) or (c) of subsection 1
30 may be removed as prescribed in NRS 40.290 to 40.420, inclusive,
31 after receiving a notice of the change of ownership of the real
32 property or mobile home and after the expiration of a notice period
33 beginning on the date the notice was received by the tenant or
34 subtenant and expiring:

35 (a) For all periodic tenancies with a period of less than 1 month,
36 after not less than the number of days in the period; and

37 (b) For all other periodic tenancies or tenancies at will, after not
38 less than 60 days.

39 3. During the notice period described in subsection 2:

40 (a) The new owner has the rights, obligations and liabilities of
41 the previous owner or landlord pursuant to chapter 118A of NRS
42 under the lease or rental agreement which the previous owner or
43 landlord entered into with the tenant or subtenant regarding the
44 property; and



1 (b) The tenant or subtenant continues to have the rights,
2 obligations and liabilities that the tenant or subtenant had pursuant
3 to chapter 118A of NRS under the lease or rental agreement which
4 the tenant or subtenant entered into with the previous owner or
5 landlord regarding the property.

6 4. The notice described in subsection 2 must contain a
7 statement:

8 (a) Providing the contact information of the new owner to whom
9 rent should be remitted;

10 (b) Notifying the tenant or subtenant that the lease or rental
11 agreement the tenant or subtenant entered into with the previous
12 owner or landlord of the property continues in effect through the
13 notice period described in subsection 2; and

14 (c) Notifying the tenant or subtenant that failure to pay rent to
15 the new owner or comply with any other term of the agreement or
16 applicable law constitutes a breach of the lease or rental agreement
17 and may result in eviction proceedings, including, without
18 limitation, proceedings conducted pursuant to NRS 40.253 and
19 40.254.

20 5. If the property has been sold as a residential foreclosure in
21 any of the cases described in paragraph (b) or (c) of subsection 1, no
22 person may enter a record of eviction for a tenant or subtenant who
23 vacates a property during the notice period described in
24 subsection 2.

25 6. If the property has been sold as a residential foreclosure in
26 any of the cases described in paragraphs (b) or (c) of subsection 1,
27 nothing in this section shall be deemed to prohibit:

28 (a) The tenant from vacating the property at any time before the
29 expiration of the notice period described in subsection 2 without any
30 obligation to the new owner of a property purchased pursuant to a
31 foreclosure sale or trustee's sale; or

32 (b) The new owner of a property purchased pursuant to a
33 foreclosure sale or trustee's sale from:

34 (1) Negotiating a new purchase, lease or rental agreement
35 with the tenant or subtenant; or

36 (2) Offering a payment to the tenant or subtenant in
37 exchange for vacating the premises on a date earlier than the
38 expiration of the notice period described in subsection 2.

39 7. This section does not apply to the tenant of a mobile home
40 lot in a mobile home park.

41 8. As used in this section, "residential foreclosure" means the
42 sale of a single family residence pursuant to NRS 40.430 or under a
43 power of sale granted by NRS 107.080. As used in this subsection,
44 "single family residence" means a structure that is comprised of not
45 more than four units.



1 **Sec. 4.** NRS 40.280 is hereby amended to read as follows:

2 40.280 1. Except as otherwise provided in NRS 40.253, the
3 notices required by NRS 40.251 to 40.260, inclusive, must be served
4 ~~;~~

5 ~~— (a) By delivering a copy to the tenant personally, in the presence~~
6 ~~of a witness. If service is accomplished by the sheriff, constable or a~~
7 ~~person who is licensed as a process server pursuant to chapter 648~~
8 ~~of NRS, the presence of a witness is not required.~~

9 ~~— (b) If the tenant is absent from the tenant's place of residence or~~
10 ~~from the tenant's usual place of business, by leaving a copy with a~~
11 ~~person of suitable age and discretion at either place and mailing a~~
12 ~~copy to the tenant at the tenant's place of residence or place of~~
13 ~~business.~~

14 ~~— (c) If the place of residence or business cannot be ascertained, or~~
15 ~~a person of suitable age or discretion cannot be found there, by~~
16 ~~posting a copy in a conspicuous place on the leased property,~~
17 ~~delivering a copy to a person there residing, if the person can be~~
18 ~~found, and mailing a copy to the tenant at the place where the leased~~
19 ~~property is situated.] pursuant to the Nevada Rules of Civil~~
20 ~~Procedure or the Justice Court Rules of Civil Procedure, as~~
21 ~~applicable.~~

22 2. The notices required by NRS 40.230, 40.240 and 40.414
23 must be served upon an unlawful or unauthorized occupant:

24 (a) Except as otherwise provided in this paragraph and
25 paragraph (b), by delivering a copy to the unlawful or unauthorized
26 occupant personally, in the presence of a witness. If service is
27 accomplished by the sheriff, constable or a person who is licensed
28 as a process server pursuant to chapter 648 of NRS, the presence of
29 a witness is not required.

30 (b) If the unlawful or unauthorized occupant is absent from the
31 real property, by leaving a copy with a person of suitable age and
32 discretion at the property and mailing a copy to the unlawful or
33 unauthorized occupant at the place where the property is situated. If
34 the occupant is unknown, the notice must be addressed to "Current
35 Occupant."

36 (c) If a person of suitable age or discretion cannot be found at
37 the real property, by posting a copy in a conspicuous place on the
38 property and mailing a copy to the unlawful or unauthorized
39 occupant at the place where the property is situated. If the occupant
40 is unknown, the notice must be addressed to "Current Occupant."

41 3. Service upon a subtenant may be made in the same manner
42 as provided in subsection 1.

43 4. Proof of service of any notice required by NRS 40.230 to
44 40.260, inclusive, must be filed with the court before:



1 (a) An order for removal of a tenant is issued pursuant to NRS
2 40.253 or 40.254;

3 (b) An order for removal of an unlawful or unauthorized
4 occupant is issued pursuant to NRS 40.414; or

5 (c) A writ of restitution is issued pursuant to NRS 40.290 to
6 40.420, inclusive.

7 5. Proof of service of an order or writ filed pursuant to
8 subsection 4 must consist of:

9 (a) Except as otherwise provided in paragraphs (b) and (c):

10 (1) If the notice was served pursuant to ~~paragraph (a) of~~
11 subsection 1 ~~or~~, *proof of service in accordance with the Nevada*
12 *Rules of Civil Procedure or the Justice Court Rules of Civil*
13 *Procedure, as applicable.*

14 (2) *If the notice was served pursuant to* paragraph (a) of
15 subsection 2, an affidavit or declaration signed by the tenant or the
16 unlawful or unauthorized occupant, as applicable, and a witness,
17 signed under penalty of perjury by the server, acknowledging that
18 the tenant or occupant received the notice on a specified date.

19 ~~{(2)}~~ (3) If the notice was served pursuant to ~~paragraph (b)~~
20 ~~or (c) of subsection 1 or~~ paragraph (b) or (c) of subsection 2, an
21 affidavit or declaration signed under penalty of perjury by the
22 person who served the notice, stating the date and manner of service
23 and accompanied by a confirmation of delivery or certificate of
24 mailing issued by the United States Postal Service or confirmation
25 of actual delivery by a private postal service.

26 (b) If the notice was served by a sheriff, a constable or a person
27 who is licensed as a process server pursuant to chapter 648 of NRS,
28 a written statement, endorsed by the person who served the notice,
29 stating the date and manner of service. The statement must also
30 include the number of the badge or license of the person who served
31 the notice.

32 (c) For a short-term tenancy, if service of the notice was not
33 delivered in person:

34 (1) A certificate of mailing issued by the United States Postal
35 Service or by a private postal service to the landlord or the
36 landlord's agent; or

37 (2) The endorsement of a sheriff or constable stating the:

38 (I) Time and date the request for service was made by the
39 landlord or the landlord's agent;

40 (II) Time, date and manner of the service; and

41 (III) Fees paid for the service.

42 **Sec. 5.** NRS 40.414 is hereby amended to read as follows:

43 40.414 1. In addition to the remedy provided in NRS 40.290
44 to 40.420, inclusive, when a person who is guilty of forcible entry or
45 forcible detainer fails, after the expiration of a written notice to



1 surrender which was served pursuant to NRS 40.230 or 40.240, to
2 surrender the real property to the owner of the real property or the
3 occupant who is authorized by the owner to be in possession of the
4 real property, the owner or occupant who is authorized by the owner
5 may seek to recover possession of the real property pursuant to this
6 section.

7 2. The owner of the real property, an authorized representative
8 of the owner or the occupant who is authorized by the owner to be
9 in possession of the real property shall serve the notice to surrender
10 on the unlawful or unauthorized occupant in accordance with the
11 provisions of NRS 40.280.

12 3. In addition to the requirements set forth in subsection 2 of
13 NRS 40.230 and subsection 2 of NRS 40.240, a written notice to
14 surrender must:

15 (a) Identify the court that has jurisdiction over the matter.

16 (b) Advise the unlawful or unauthorized occupant:

17 (1) Of his or her right to contest the matter by filing, before
18 the court's close of business on the fourth judicial day following
19 service of the notice of surrender, an affidavit with the court that has
20 jurisdiction over the matter stating the reasons why the unlawful or
21 unauthorized occupant is not guilty of a forcible entry or forcible
22 detainer.

23 (2) That if the court determines that the unlawful or
24 unauthorized occupant is guilty of a forcible entry or forcible
25 detainer, the court may issue a summary order for removal of the
26 unlawful or unauthorized occupant or an order providing for the
27 nonadmittance of the unlawful or unauthorized occupant, directing
28 the sheriff or constable of the county to remove the unlawful or
29 unauthorized occupant ~~[within 24]~~ *not earlier than 48* hours after
30 the sheriff's or constable's receipt of the order from the court.

31 (3) That, except as otherwise provided in this subparagraph,
32 the owner of the real property, an authorized representative of the
33 owner or the occupant who is authorized by the owner of the real
34 property to be in possession of the real property shall provide safe
35 storage of any personal property of the unlawful or unauthorized
36 occupant which remains on the property. The owner, an authorized
37 representative of the owner or the occupant may dispose of any
38 personal property of the unlawful or unauthorized occupant
39 remaining on the real property after 14 calendar days from the
40 execution of an order for removal of the unlawful or unauthorized
41 occupant or the compliance of the unlawful or unauthorized
42 occupant with the notice to surrender, whichever comes first. The
43 unlawful or unauthorized occupant must pay the owner, authorized
44 representative of the owner or occupant for the reasonable and
45 actual costs of inventory, moving and storage of the personal



1 property before the personal property will be released to the
2 unlawful or unauthorized occupant.

3 4. Upon service of the written notice to surrender pursuant to
4 subsection 3, the unlawful or unauthorized occupant shall:

5 (a) Before the expiration of the notice, surrender the real
6 property to the owner of the real property, an authorized
7 representative of the owner or the occupant who is authorized by the
8 owner to be in possession of the real property, in which case an
9 affidavit of complaint may not be filed pursuant to subsection 5 and
10 a summary order for removal may not be issued pursuant to
11 subsection 6;

12 (b) Request that the court stay the execution of a summary order
13 for removal, stating the reasons why such a stay is warranted; or

14 (c) Contest the matter by filing, before the court's close of
15 business on the fourth judicial day following service of the notice to
16 surrender, an affidavit with the court that has jurisdiction over the
17 matter stating the reasons that the unlawful or unauthorized
18 occupant is not guilty of a forcible entry or forcible detainer. A file-
19 stamped copy of the affidavit must be served by mail upon the
20 issuer of the notice to surrender.

21 5. Upon expiration of the written notice to surrender, the owner
22 of the real property, an authorized representative of the owner or the
23 occupant who is authorized by the owner to be in possession of
24 the real property may apply by affidavit of complaint for eviction to
25 the justice court of the township in which the real property is located
26 or the district court of the county in which the real property is
27 located, whichever has jurisdiction over the matter. The affidavit of
28 complaint for eviction must state or contain:

29 (a) The date on which the unlawful or unauthorized occupant
30 forcibly entered or detained the real property or the date on which
31 the applicant first became aware of the forcible entry or forcible
32 detainer.

33 (b) A summary of the specific facts detailing how the alleged
34 forcible entry or forcible detainer was or is being committed.

35 (c) A copy of the written notice to surrender that was served on
36 the unlawful or unauthorized occupant.

37 (d) Proof of service of the written notice to surrender in
38 compliance with NRS 40.280.

39 6. Upon the filing of the affidavit of complaint by the owner of
40 the real property, an authorized representative of the owner or the
41 occupant who is authorized by the owner to be in possession of
42 the real property pursuant to subsection 5, the justice court or the
43 district court, as applicable, shall determine the truthfulness and
44 sufficiency of any affidavit or notice provided for in this section. If:



1 (a) The unlawful or unauthorized occupant has failed to timely
2 file an affidavit contesting the matter pursuant to paragraph (c) of
3 subsection 4 and the court determines that sufficient evidence has
4 been set forth in the affidavit of complaint to demonstrate that a
5 forcible entry or forcible detainer has been committed by the
6 unlawful or unauthorized occupant, the court must issue an order
7 directing the sheriff or constable of the county to remove the
8 unlawful or unauthorized occupant ~~[within 24]~~ *not earlier than 48*
9 hours after the sheriff's or constable's receipt of the order from the
10 court.

11 (b) The unlawful or unauthorized occupant has timely filed an
12 affidavit contesting the matter pursuant to paragraph (c) of
13 subsection 4 and the court determines that the affidavit fails to raise
14 an element of a legal defense regarding the alleged forcible entry or
15 forcible detainer, the court may rule on the matter without a hearing.
16 If the court determines that sufficient evidence has been set forth in
17 the affidavit of complaint to demonstrate that a forcible entry or
18 forcible detainer has been committed by the unlawful or
19 unauthorized occupant, the court must issue an order directing the
20 sheriff or constable of the county to remove the unlawful or
21 unauthorized occupant ~~[within 24]~~ *not earlier than 48* hours after
22 the sheriff's or constable's receipt of the order from the court, unless
23 the court has stayed the execution of the order pursuant to a request
24 pursuant to paragraph (b) of subsection 4.

25 (c) The unlawful or unauthorized occupant has timely filed an
26 affidavit contesting the matter pursuant to paragraph (c) of
27 subsection 4 and the court determines that the affidavit raises an
28 element of a legal defense regarding the alleged forcible entry or
29 forcible detainer, the court must require the parties to appear at a
30 hearing to determine the truthfulness and sufficiency of the evidence
31 set forth in any affidavit. Such a hearing must be held within 7
32 judicial days after the filing of the affidavit of complaint.

33 (d) Upon review of the affidavits of any party or upon hearing,
34 the court determines that:

35 (1) There is a legal defense as to the alleged forcible entry or
36 forcible detainer, the court must refuse to grant either party any
37 relief and, except as otherwise provided in this subsection, must
38 require that any further proceedings be conducted pursuant to NRS
39 40.290 to 40.420, inclusive.

40 (2) The unlawful or unauthorized occupant gained entry or
41 possession of the real property peaceably and as a result of an
42 invalid lease, fraudulent act or misrepresentation by a person
43 without the authority of the owner of the real property, the court
44 may issue a summary order for the removal of the unlawful or
45 unauthorized occupant but also may, within the discretion of the



1 court, stay such order for a period sufficient to allow the unlawful or
2 unauthorized occupant to vacate and remove his or her personal
3 property. This period may not exceed 20 days.

4 7. The owner of the real property, an authorized representative
5 of the owner or the occupant who is authorized by the owner to be
6 in possession of the real property may, without incurring any civil or
7 criminal liability, dispose of personal property abandoned on the
8 real property by an unlawful or unauthorized occupant who is
9 ordered removed by this section in the following manner:

10 (a) The owner of the real property, an authorized representative
11 of the owner or the occupant who is authorized by the owner to be
12 in possession of the real property shall reasonably provide for the
13 safe storage of the abandoned personal property for 21 calendar
14 days after the removal of the unlawful or unauthorized occupant or
15 the surrender of the real property in compliance with a written
16 notice to surrender, whichever comes first, and may charge and
17 collect the reasonable and actual costs of inventory, moving and
18 storage before releasing the abandoned personal property to the
19 unlawful or unauthorized occupant or his or her authorized
20 representative rightfully claiming the property within that period.
21 The owner or the occupant is liable to the unlawful or unauthorized
22 occupant only for negligent or wrongful acts in storing the
23 abandoned personal property.

24 (b) After the expiration of the 21-day period, the owner of the
25 real property, an authorized representative of the owner or the
26 occupant who is authorized by the owner to be in possession of
27 the real property may dispose of the abandoned personal property
28 and recover his or her reasonable costs out of the personal property
29 or the value thereof.

30 (c) Vehicles must be disposed of in the manner provided in
31 chapter 487 of NRS for abandoned vehicles.

32 (d) Any dispute relating to the amount of the costs claimed by
33 the owner of the real property, an authorized representative of the
34 owner or the occupant who is authorized by the owner to be in
35 possession of the real property pursuant to paragraph (a) may be
36 resolved by the court pursuant to a motion filed by the unlawful or
37 unauthorized occupant and the payment of the appropriate fees
38 relating to the filing and service of the motion. The motion must be
39 filed within 14 calendar days after the removal of the unlawful or
40 unauthorized occupant or the surrender of the real property in
41 compliance with a written notice to surrender, whichever comes
42 first. Upon the filing of a motion by the unlawful or unauthorized
43 occupant pursuant to this paragraph, the court shall schedule a
44 hearing on the motion. The hearing must be held within 10 judicial
45 days after the filing of the motion. The court shall affix the date of



1 the hearing to the motion and mail a copy to the owner, an
2 authorized representative of the owner or the occupant at the address
3 on file with the court.

4 **Sec. 6.** NRS 21.130 is hereby amended to read as follows:

5 21.130 1. Before the sale of property on execution, notice of
6 the sale, in addition to the notice required pursuant to NRS 21.075
7 and 21.076, must be given as follows:

8 (a) In cases of perishable property, by posting written notice of
9 the time and place of sale in three public places at the township or
10 city where the sale is to take place, for such a time as may be
11 reasonable, considering the character and condition of the property.

12 (b) In case of other personal property, by posting a similar
13 notice in three public places of the township or city where the sale is
14 to take place, not less than 5 or more than 10 days before the sale,
15 and, in case of sale on execution issuing out of a district court, by
16 the publication of a copy of the notice in a newspaper, if there is one
17 in the county, at least twice, the first publication being not less than
18 10 days before the date of the sale.

19 (c) In case of real property, by:

20 (1) Personal service upon each judgment debtor or by
21 registered mail to the last known address of each judgment debtor
22 and, if the property of the judgment debtor is operated as a facility
23 licensed under chapter 449 of NRS, upon the State Board of Health;

24 (2) Posting a similar notice particularly describing the
25 property, for 20 days successively, in three public places of the
26 township or city where the property is situated and where
27 the property is to be sold;

28 (3) Publishing a copy of the notice three times, once each
29 week, for 3 successive weeks, in a newspaper, if there is one in the
30 county. The cost of publication must not exceed the rate for legal
31 advertising as provided in NRS 238.070. If the newspaper
32 authorized by this section to publish the notice of sale neglects or
33 refuses from any cause to make the publication, then the posting of
34 notices as provided in this section shall be deemed sufficient notice.
35 Notice of the sale of property on execution upon a judgment for any
36 sum less than \$500, exclusive of costs, must be given only by
37 posting in three public places in the county, one of which must be
38 the courthouse;

39 (4) Recording a copy of the notice in the office of the county
40 recorder; and

41 (5) If the sale of property is a residential foreclosure, posting
42 a copy of the notice in a conspicuous place on the property. In
43 addition to the requirements of NRS 21.140, the notice must not be
44 defaced or removed until the transfer of title is recorded or the



1 property becomes occupied after completion of the sale, whichever
2 is earlier.

3 2. If the sale of property is a residential foreclosure, the notice
4 must include, without limitation:

5 (a) The physical address of the property; and

6 (b) The contact information of the party who is authorized to
7 provide information relating to the foreclosure status of the
8 property.

9 3. If the sale of property is a residential foreclosure, a separate
10 notice must be posted in a conspicuous place on the property and
11 mailed, with a certificate of mailing issued by the United States
12 Postal Service or another mail delivery service, to any tenant or
13 subtenant, if any, other than the judgment debtor, in actual
14 occupation of the premises not later than 3 business days after the
15 notice of the sale is given pursuant to subsection 1. The separate
16 notice must be in substantially the following form:

17
18 NOTICE TO TENANTS OF THE PROPERTY

19
20 Foreclosure proceedings against this property have started,
21 and a notice of sale of the property to the highest bidder has
22 been issued.

23
24 You may either: (1) terminate your lease or rental agreement
25 and move out; or (2) remain and possibly be subject to
26 eviction proceedings under chapter 40 of the Nevada Revised
27 Statutes. Any subtenants may also be subject to eviction
28 proceedings.

29
30 Between now and the date of the sale, you may be evicted if
31 you fail to pay rent or live up to your other obligations to the
32 landlord.

33
34 After the date of the sale, you may be evicted if you fail to
35 pay rent or live up to your other obligations to the successful
36 bidder, in accordance with chapter 118A of the Nevada
37 Revised Statutes.

38
39 Under the Nevada Revised Statutes, eviction proceedings
40 may begin against you after you have been given a notice to
41 surrender.

42
43 If the property is sold and you pay rent by the week or
44 another period of time that is shorter than 1 month, you



1 should generally receive notice after not less than the number
2 of days in that period of time.

3
4 If the property is sold and you pay rent by the month or any
5 other period of time that is 1 month or longer, you should
6 generally receive notice at least 60 days in advance.

7
8 Under Nevada Revised Statutes 40.280, notice must generally
9 be served on you pursuant to chapter 40 of the Nevada
10 Revised Statutes . ~~and may be served by:~~

11 ~~—(1) Delivering a copy to you personally in the presence of~~
12 ~~a witness, unless service is accomplished by a sheriff,~~
13 ~~constable or licensed process server, in which case the~~
14 ~~presence of a witness is not required;~~

15 ~~—(2) If you are absent from your place of residence or usual~~
16 ~~place of business, leaving a copy with a person of suitable age~~
17 ~~and discretion at either place and mailing a copy to you at~~
18 ~~your place of residence or business and to the place where the~~
19 ~~leased property is situated, if different; or~~

20 ~~—(3) If your place of residence or business cannot be~~
21 ~~ascertained, or a person of suitable age or discretion cannot~~
22 ~~be found there, posting a copy in a conspicuous place on the~~
23 ~~leased property and mailing a copy to you at the place where~~
24 ~~the leased property is situated.]~~

25
26 If the property is sold and a landlord, successful bidder or
27 subsequent purchaser files an eviction action against you in
28 court, you will be served with a summons and complaint and
29 have the opportunity to respond. Eviction actions may result
30 in temporary evictions, permanent evictions, the awarding of
31 damages pursuant to Nevada Revised Statutes 40.360 or some
32 combination of those results.

33
34 Under the Justice Court Rules of Civil Procedure:

35 (1) You will be given at least 10 days to answer a
36 summons and complaint;

37 (2) If you do not file an answer, an order evicting you by
38 default may be obtained against you;

39 (3) A hearing regarding a temporary eviction may be
40 called as soon as 11 days after you are served with the
41 summons and complaint; and

42 (4) A hearing regarding a permanent eviction may be
43 called as soon as 20 days after you are served with the
44 summons and complaint.



1 4. The sheriff shall not conduct a sale of the property on
2 execution or deliver the judgment debtor's property to the judgment
3 creditor if the judgment debtor or any other person entitled to notice
4 has not been properly notified as required in this section and NRS
5 21.075 and 21.076.

6 5. As used in this section, "residential foreclosure" means the
7 sale of a single family residence pursuant to NRS 40.430. As used in
8 this subsection, "single family residence" means a structure that is
9 comprised of not more than four units.

10 **Sec. 7.** NRS 107.087 is hereby amended to read as follows:

11 107.087 1. In addition to the requirements of NRS 107.080,
12 if the sale of property is a residential foreclosure, a copy of the
13 notice of default and election to sell and the notice of sale must:

14 (a) Be posted in a conspicuous place on the property not later
15 than:

16 (1) For a notice of default and election to sell, 100 days
17 before the date of sale; or

18 (2) For a notice of sale, 15 days before the date of sale; and

19 (b) Include, without limitation:

20 (1) The physical address of the property; and

21 (2) The contact information of the trustee or the person
22 conducting the foreclosure who is authorized to provide information
23 relating to the foreclosure status of the property.

24 2. In addition to the requirements of NRS 107.084, the notices
25 must not be defaced or removed until the transfer of title is recorded
26 or the property becomes occupied after completion of the sale,
27 whichever is earlier.

28 3. A separate notice must be posted in a conspicuous place on
29 the property and mailed, with a certificate of mailing issued by the
30 United States Postal Service or another mail delivery service, to any
31 tenant or subtenant, if any, other than the grantor or the grantor's
32 successor in interest, in actual occupation of the premises not later
33 than 15 days before the date of sale. The separate notice must be in
34 substantially the following form:

35
36 NOTICE TO TENANTS OF THE PROPERTY

37
38 Foreclosure proceedings against this property have started,
39 and a notice of sale of the property to the highest bidder has
40 been issued.

41
42 You may either: (1) terminate your lease or rental agreement
43 and move out; or (2) remain and possibly be subject to
44 eviction proceedings under chapter 40 of the Nevada Revised



1 Statutes. Any subtenants may also be subject to eviction
2 proceedings.

3
4 Between now and the date of the sale, you may be evicted if
5 you fail to pay rent or live up to your other obligations to the
6 landlord.

7
8 After the date of the sale, you may be evicted if you fail to
9 pay rent or live up to your other obligations to the successful
10 bidder, in accordance with chapter 118A of the Nevada
11 Revised Statutes.

12
13 Under the Nevada Revised Statutes eviction proceedings may
14 begin against you after you have been given a notice to
15 surrender.

16
17 If the property is sold and you pay rent by the week or
18 another period of time that is shorter than 1 month, you
19 should generally receive notice after not less than the number
20 of days in that period of time.

21
22 If the property is sold and you pay rent by the month or any
23 other period of time that is 1 month or longer, you should
24 generally receive notice at least 60 days in advance.

25
26 Under Nevada Revised Statutes 40.280, notice must generally
27 be served on you pursuant to chapter 40 of the Nevada
28 Revised Statutes . ~~and may be served by:~~

29 ~~—(1) Delivering a copy to you personally in the presence of~~
30 ~~a witness, unless service is accomplished by a sheriff,~~
31 ~~constable or licensed process server, in which case the~~
32 ~~presence of a witness is not required;~~

33 ~~—(2) If you are absent from your place of residence or usual~~
34 ~~place of business, leaving a copy with a person of suitable age~~
35 ~~and discretion at either place and mailing a copy to you at~~
36 ~~your place of residence or business and to the place where the~~
37 ~~leased property is situated, if different; or~~

38 ~~—(3) If your place of residence or business cannot be~~
39 ~~ascertained, or a person of suitable age or discretion cannot~~
40 ~~be found there, posting a copy in a conspicuous place on the~~
41 ~~leased property and mailing a copy to you at the place where~~
42 ~~the leased property is situated.]~~

43
44 If the property is sold and a landlord, successful bidder or
45 subsequent purchaser files an eviction action against you in



1 court, you will be served with a summons and complaint and
2 have the opportunity to respond. Eviction actions may result
3 in temporary evictions, permanent evictions, the awarding of
4 damages pursuant to Nevada Revised Statutes 40.360 or some
5 combination of those results.

6
7 Under the Justice Court Rules of Civil Procedure:

8 (1) You will be given at least 10 days to answer a
9 summons and complaint;

10 (2) If you do not file an answer, an order evicting you by
11 default may be obtained against you;

12 (3) A hearing regarding a temporary eviction may be
13 called as soon as 11 days after you are served with the
14 summons and complaint; and

15 (4) A hearing regarding a permanent eviction may be
16 called as soon as 20 days after you are served with the
17 summons and complaint.

18
19 4. The posting of a notice required by this section must be
20 completed by a process server licensed pursuant to chapter 648 of
21 NRS or any constable or sheriff of the county in which the property
22 is located.

23 5. As used in this section, "residential foreclosure" has the
24 meaning ascribed to it in NRS 107.0805.

25 **Sec. 8.** This act becomes effective on July 1, 2019.

