

# NEVADA'S EVICTION MORATORIUM

Nevada Legal Services, Inc.



# Disclaimer

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# Overview

- ❑ Current Status of Evictions in Nevada
  - ❑ Emergency Directive 025
  - ❑ What evictions can start now and what is the timeline?
- ❑ What happens after the moratorium is lifted?
- ❑ Summary Eviction Overview
- ❑ Summary Eviction General Defenses
- ❑ Summary Eviction Notice Specific Defenses
  - ❑ Pay Rent or Quit
  - ❑ Lease Violation
  - ❑ Nuisance
  - ❑ No Cause

## Current Status of Evictions:

### Directive 025

- ❑ Distinction made between summary and non-summary evictions
- ❑ Summary Eviction: NRS 40.253/40.254
  - Residential tenancies of dwelling units
  - Commercial evictions for non-payment of rent
- ❑ Non-summary eviction: NRS 40.300
  - Mobile home park evictions – NRS 118B
  - Evictions after sale or foreclosure – NRS 40.255

# Current Status of Evictions:

June 25

## ☐ Motels: Residents v. Tenants

- Public accommodations (hotels and motels) evictions and “lockouts” may continue on June 25, 2020 (Section 15)
- Directive specifically references NRS 651
- Motel residents may be tenants under NRS 118A and entitled to further protection = no lockouts, eviction notice required
- Must have resided in motel for 30 days or manifested an intent to remain for longer than 30 days

## Current Status of Evictions:

July 1

- ❑ Commercial Tenancies – evictions can begin July 1
- ❑ Mobile Home Parks – for cause evictions can begin but NOT for non-payment of rent
- ❑ Post-Sale/Foreclosure evictions can begin
- ❑ Formal evictions in process before March 30 – so any eviction action pending before a court that was stayed when Directive 008 was enacted can begin
  - Does not include non-payment of rent evictions

## Current Status of Evictions:

August 1

- ❑ Summary eviction – for cause evictions, evictions after the lease expires pursuant to NRS 40.250 (Section 5)
  - But cannot substitute for 30 day no cause or lease violation instead of failure to pay rent – no circumventing the Directive
- ❑ Mobile Home Parks – non-payment of rent evictions can start August 1
- ❑ Formal or summary evictions in process before March 30 – so any eviction action pending before a court that was stayed when Directive 008 was enacted can begin
  - For formal eviction – non-payment of rent
  - For summary eviction – cause evictions such as nuisance, lease violation, etc. where the Tenant filed a Tenant's Affidavit and the case was pending in court prior to Directive 008 enactment

## Current Status of Evictions: September 1

- ❑ Summary eviction: non-payment of rent and no cause evictions can start September 1
- ❑ Summary evictions where the Tenant filed a Tenant's Affidavit and the case was pending in court prior to Directive 008 enactment for non-payment of rent or no cause notices

## Current Status of Evictions:

## Late Fees and Void Notices

- ❑ Late fees are still prohibited, can never be charged and cannot accrue from March 30
  - Through July 31 for mobile home parks
  - Through August 31 for residential tenancies
- ❑ Interest on mortgages can begin to accrue though the foreclosure moratorium still in place until September 1
- ❑ Eviction notices served prior to and during the moratorium are void (Section 5)
- ❑ Except where Tenant's Affidavit already filed before the moratorium began on March 30 (Section 7: as discussed in previous slides)
  - In Summary Eviction, tenant must file a Tenant's Affidavit to contest an eviction. NRS 40.253.
  - If notice issued, but no Affidavit filed, then notice is void.
  - For formal eviction, landlord filed Complaint.

Moratorium

What does this mean for  
landlord and tenants?

# What if I cannot pay rent during the moratorium or get an eviction notice?

- ❑ If you can pay rent, then pay your rent. Rent is still owed – no rent forgiveness
- ❑ If you receive an eviction notice or your landlord is threatening to evict you while Directive 008/025 applies do not voluntarily vacate. You can file a complaint with the Attorney General's Office:
  - Online: <http://ag.nv.gov/> (choose the option to electronically submit the complaint)
  - Over the Phone: (888) 434-9989
- ❑ If your landlord locks you out this is unlawful. You may be able to file a Verified Complaint for Illegal Lockout or Motion to Set Aside depending on the circumstances.
- ❑ Promissory Note and Lease Addendum: Both Directive 008 and 025 encourage landlords and tenants to work together to come up with a payment plan to allow the tenant to remain and catch up on any rent owed.

# The Promissory Note

- Not Mandatory.
- Promissory Note-landlords and tenants are encouraged to work together. (Section 1)
- If enter into promissory note, landlord agrees not to evict tenant for past due rent.
- Eviction allowed for violation of the agreement moving forward.
- Tenant must sign over rental assistance received to Landlord, which will be applied to current rent and then to past due rent under the Promissory Note.

## Emergency Exception

What if I get a notice that alleges I am a nuisance or violated my lease before August 1?

“This provision does not prohibit the eviction of persons who seriously endanger the public or other residents, engage in criminal activity, or cause significant damage to the property.”

Moratorium?

What happens after the  
moratorium ends?

# Summary Eviction: Overview

- ❑ NRS 40.253, NRS 40.254
- ❑ Types of Notices:
  - ❑ 7 Day Pay Rent or Quit Notice – no other notice needed
  - ❑ 5 Day Lease Violation Notice – must be followed by a 5 Day Unlawful Detainer Notice.
  - ❑ 3 Day Nuisance Notice – must be followed by a 5 Day Unlawful Detainer Notice
  - ❑ 7/30 Day No Cause Notice – must be followed by a 5 Day Unlawful Detainer Notice
- ❑ Service: Notice must be served by the sheriff, constable, licensed process server, or the agent of an attorney. The notice must be:
  - ❑ Delivered to the tenant personally, OR
  - ❑ If the tenant is absent from the tenant's place of residence, by leaving a copy with a person of suitable age and discretion and mailing a copy to the tenant, OR
  - ❑ By posting a copy in a conspicuous place on the leased property, and mailing a copy to the tenant.

# Summary Eviction: General Defenses

- ❑ Lack of Jurisdiction - proper notice is a jurisdictional pre-requisite.
  - ❑ Unlawful Detainer Notice was served before the first notice expired.
  - ❑ Notice does not properly advise the Tenant of his or her right to file a Tenant's Affidavit to contest the eviction.
  - ❑ Party named as landlord is not the owner or agent of the owner of the property.
  - ❑ Advise tenant that if a court determines the tenant is guilty of an unlawful detainer, the court may issue a summary order directing the sheriff or constable of the county to remove the tenant 24-36 hours after receipt of the order.
- ❑ Invalid Service
  - ❑ Notice was not properly served.
- ❑ Moratorium
  - ❑ Notice to Vacate or Unlawful Detainer Notice issued during period of moratorium in violation of CARES Act or Directive 008/025.

## Not able to pay rent after moratorium lifts

- ❑ 7 Day Pay Rent or Quit – no prior notice is needed
- ❑ 7 Day Pay Rent or Quit Notice must:
  - ❑ State the amount of rent owed.
  - ❑ State the proper parties
  - ❑ Advise the tenant of his or her right to contest the notice by filing a Tenant's Affidavit.
  - ❑ Include language that informs the tenant of his or her right to seek relief if the landlord unlawfully removes the tenant from the premises or causes or permits the interruption of an essential service.
  - ❑ Advise tenant that if a court determines the tenant is guilty of an unlawful detainer, the court may issue a summary order directing the sheriff or constable of the county to remove the tenant 24-36 hours after receipt of the order.
- ❑ The tenant has 7 judicial days from the date of service to file a Tenant's Affidavit if the tenant wishes to contest the eviction. Landlord may receive a lockout order without a hearing if the Tenant fails to file a Tenant's Affidavit on time.

## Defenses to Non-Payment of Rent

- Tenant paid rent.
- Landlord and Tenant entered into a separate agreement for the amount owe and Tenant has not violated that agreement.
- Landlord refused to accept payment of rent.
- Tenant properly withheld rent.
- Amount on the notice is incorrect.
  - Includes amounts that are not rent / improper late fees.
- Rent amount includes late fees prohibited by Directive 025.

# Summary Eviction: Lease Violation Notice

- ❑ 5 Day Lease Violation Notice must be followed by a 5 Day Unlawful Detainer Notice
- ❑ 5 Day Lease Violation notice must describe the lease violation.
- ❑ 5 Day Unlawful Detainer Notice must:
  - ❑ State the proper court and parties.
  - ❑ Advise tenant of his or her right to contest the notice by filing a tenant's affidavit.
  - ❑ Advise tenant if a court determines the tenant is guilty of an unlawful detainer, the court may issue a summary order directing the sheriff or constable of the county to remove the tenant 24-48 hours after receipt of the order.
  - ❑ Advise tenant of his or her right to request a stay of the eviction.
- ❑ Tenant has 5 judicial days from the date the Unlawful Detainer is served to contest the eviction by filing a Tenant's Affidavit.
- ❑ Lease Violation Defenses:
  - ❑ Tenant cured the lease violation.
  - ❑ Tenant did not violate a material part of the lease.
  - ❑ Tenant did not violate the lease in any way.

# Summary Eviction: Nuisance Notice

- ❑ 3 Day Nuisance Notice must be followed by a 5 Day Unlawful Detainer Notice.
- ❑ 3 Day Nuisance Notice should allege how tenant is being a nuisance.
- ❑ 5 Day Unlawful Detainer Notice must include the same information listed in previous slide.
- ❑ Tenant has 5 judicial days from the date the Unlawful Detainer is served to contest the eviction by filing a Tenant's Affidavit.
- ❑ Nuisance Defenses:
  - ❑ Tenant is not a nuisance
    - ❑ A nuisance consists of conduct or an ongoing condition which constitutes an unreasonable obstruction to the free use of property and causes injury or damage to other tenants or occupants of that property or adjacent buildings or structure. (NRS 40.2514).
  - ❑ Nuisance is abated or cured.
  - ❑ The allegations are false.

# Summary Eviction: No Cause Notice

- ❑ A No Cause Notice must be followed by a 5 Day Unlawful Detainer Notice
- ❑ No Cause Notice must advise tenant of his or her right to request an additional 30 days to move due to age or disability.
- ❑ 5 Day Unlawful Detainer Notice must include the same information listed in previous slide.
- ❑ Tenant has 5 judicial days from the date the Unlawful Detainer is served to contest the eviction by filing a Tenant's Affidavit.
- ❑ No Cause Notice Defenses:
  - ❑ Lease has not expired.
  - ❑ Landlord is retaliating.
  - ❑ Landlord is discriminating.
  - ❑ Tenant is in a type of subsidized housing that prohibits no cause notices.

Thanks for  
attending!

- ❑ A presentation by Nevada Legal Services



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  - ❑ Reno: (775) 284-3491
  - ❑ Las Vegas: (702) 386-0404
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