

ASSEMBLY BILL NO. 355—ASSEMBLYWOMAN
GIUNCHIGLIANI (BY REQUEST)

MARCH 22, 2005

Referred to Committee on Government Affairs

SUMMARY—Provides right of judicial review for final decisions of housing authorities. (BDR 25-752)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 housing authorities; providing that persons who receive adverse final decisions from a housing authority under certain circumstances are entitled to seek judicial review of such decisions; establishing certain procedures and standards for judicial review of such decisions; and providing other matters properly relating thereto.

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

1 **Section 1.** Chapter 315 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 9, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 9, inclusive, of this act, unless*
5 *the context otherwise requires, “housing authority” means a*
6 *housing authority created pursuant to this chapter. The term*
7 *includes the Nevada Rural Housing Authority created pursuant to*
8 *NRS 315.977.*

9 **Sec. 3.** 1. *The final decision of a housing authority:*
10 *(a) Denying a person’s request for a hearing; or*
11 *(b) After a hearing:*
12 *(1) Denying a person’s application for housing assistance;*
13 *(2) Reducing, suspending or terminating a person’s*
14 *housing assistance; or*
15 *(3) Terminating a person’s tenancy,*



1 ↪ must be in writing.

2 2. The housing authority shall serve a copy of its final
3 decision on the person either personally or by certified mail.

4 3. Except as otherwise provided in NRS 315.041, the copy of
5 the final decision must be accompanied by a written notice
6 informing the person of his right to judicial review of the decision.
7 The notice must include, without limitation:

8 (a) A statement that to obtain judicial review, he must file a
9 petition in the district court of the county in which he resides.

10 (b) A warning that he will lose his right to judicial review
11 unless the petition is filed within 30 days after service on him of
12 the final decision.

13 (c) A general statement of the procedure set forth in section 8
14 of this act for obtaining a stay of the final decision during the
15 pendency of the action for judicial review.

16 (d) The names, addresses and telephone numbers of the
17 programs that provide free legal services to persons of low income
18 in the person's county of residence.

19 4. As used in this section:

20 (a) "Hearing" includes an informal hearing.

21 (b) "Housing assistance" means any financial assistance
22 provided by a housing authority to, or on behalf of, a person
23 pursuant to a program for assisting persons of low income to
24 obtain decent, safe and sanitary housing, including, without
25 limitation, programs created pursuant to the United States
26 Housing Act of 1937, 42 U.S.C. §§ 1437 et seq., the HOME
27 Investment Partnership Act, 42 U.S.C. §§ 12701 et seq., and the
28 Account for Low-Income Housing created in NRS 319.500.

29 **Sec. 4. 1.** Except as otherwise provided in NRS 315.041, a
30 person who receives from a housing authority an adverse final
31 decision in a matter set forth in section 3 of this act is entitled to
32 judicial review of the decision.

33 2. Petitions for judicial review must:

34 (a) Name the housing authority as respondent.

35 (b) Be instituted by filing a petition in the district court in and
36 for the county in which the aggrieved person resides.

37 (c) Be filed within 30 days after service of the final decision of
38 the housing authority.

39 3. The petition for judicial review must be served on the
40 housing authority within 45 days after the filing of the petition,
41 unless, upon a showing of good cause, the district court extends
42 the time for such service.

43 4. The clerk of a district court shall provide, without charge,
44 a form of a petition for judicial review.



1 **Sec. 5. 1.** *Within 30 days after the service of the petition for*
2 *judicial review or such time as is allowed by the court, the housing*
3 *authority shall transmit to the reviewing court the original or a*
4 *certified copy of the entire record of the proceeding under review,*
5 *including the final decision and any findings of fact of the*
6 *housing authority and any document or other paper considered*
7 *and transcript of testimony taken resulting in the final decision of*
8 *the housing authority. The record may be shortened by stipulation*
9 *of the parties to the proceedings. A party unreasonably refusing to*
10 *stipulate to limit the record, as determined by the court, may be*
11 *assessed by the court any additional costs. The court may require*
12 *or permit subsequent corrections or additions to the record.*

13 **2.** *If, before submission to the court, an application is made*
14 *to the court for leave to present additional evidence, and it is*
15 *shown to the satisfaction of the court that the additional evidence*
16 *is material and that there were good reasons for failure to present*
17 *it in the proceeding before the agency, the court may order that*
18 *the additional evidence and any rebuttal evidence be taken before*
19 *the housing authority upon such conditions as the court*
20 *determines.*

21 **3.** *After receipt of any additional evidence, the housing*
22 *authority:*

23 **(a)** *May modify its findings and decision; and*

24 **(b)** *Shall file the evidence and any modifications, new findings*
25 *or decisions with the reviewing court.*

26 **Sec. 6. 1.** *A petitioner who is seeking judicial review must*
27 *serve and file a memorandum of points and authorities within 40*
28 *days after the housing authority gives written notice to the parties*
29 *that the record of the proceeding under review has been filed with*
30 *the court.*

31 **2.** *The respondent shall serve and file a reply memorandum*
32 *of points and authorities within 30 days after service of the*
33 *memorandum of points and authorities.*

34 **3.** *The petitioner may serve and file reply memoranda of*
35 *points and authorities within 30 days after service of the reply*
36 *memorandum.*

37 **4.** *Within 7 days after the expiration of the time within which*
38 *the petitioner is required to reply, any party may request a*
39 *hearing. Unless a request for hearing has been filed, the matter*
40 *shall be deemed submitted.*

41 **5.** *All memoranda of points and authorities filed in*
42 *proceedings involving petitions for judicial review must be in the*
43 *form provided for appellate briefs in Rule 28 of the Nevada Rules*
44 *of Appellate Procedure.*



1 6. *The court, for good cause, may extend the times allowed in*
2 *this section for filing memoranda.*

3 **Sec. 7. 1. *Judicial review of a final decision of a housing***
4 ***authority must be:***

5 (a) *Conducted by the court without a jury; and*

6 (b) *Confined to the record.*

7 ↪ *In cases concerning alleged irregularities in procedure before a*
8 *housing authority that are not shown in the record, the court may*
9 *receive evidence concerning the irregularities.*

10 2. *The court shall, upon the request of either party, hear oral*
11 *argument.*

12 3. *The court may remand or affirm the final decision or set it*
13 *aside in whole or in part if substantial rights of the petitioner have*
14 *been prejudiced because the final decision of the agency is:*

15 (a) *In violation of constitutional or statutory provisions;*

16 (b) *In excess of the statutory authority of the agency;*

17 (c) *Made upon unlawful procedure;*

18 (d) *Affected by other error of law;*

19 (e) *Erroneous in view of the reliable, probative and substantial*
20 *evidence on the whole record; or*

21 (f) *Arbitrary or capricious or characterized by abuse of*
22 *discretion.*

23 4. *For the purposes of this section, uncorroborated hearsay*
24 *does not constitute substantial evidence.*

25 **Sec. 8. 1. *The filing of a petition for judicial review does***
26 ***not stay enforcement of the final decision of a housing authority.***

27 2. *A petitioner who applies for a stay of the final decision of a*
28 *housing authority shall file and serve a written motion for the stay*
29 *on the housing authority and all parties of record to the*
30 *proceeding at the time of filing the petition for judicial review.*

31 3. *To obtain a stay, the petition and motion must be filed and*
32 *served within 15 days after the service of the final decision on the*
33 *petitioner.*

34 4. *The court shall grant a stay of the final decision of a*
35 *housing authority pending upon the petitioner's filing of a bond in*
36 *the amount of \$1.*

37 5. *A petitioner who retains possession of the premises that are*
38 *the subject of the petition for judicial review during the pendency*
39 *of the action shall pay rent to the housing authority or landlord as*
40 *provided in the underlying contract for possession of the premises.*
41 *If the tenant fails to pay such rent, the housing authority or*
42 *landlord may initiate proceedings for an eviction.*

43 6. *As used in this section, "landlord" has the meaning*
44 *ascribed to it in NRS 315.021.*



- 1 **Sec. 9.** *An aggrieved party may obtain a review of any final*
- 2 *judgment of the district court by appeal to the Supreme Court. The*
- 3 *appeal must be taken as in other civil cases.*

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