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SENATE BILL NO. 190—SENATORS CEGAUSKE, AMODEI,  
MCGINNESS, NOLAN AND WASHINGTON (BY REQUEST)

MARCH 17, 2005

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Referred to Committee on Judiciary

**SUMMARY**—Revises provisions governing actions for forcible entry or forcible or unlawful detainer. (BDR 3-629)

**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.

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AN ACT relating to property; revising the time in which a defendant in an action for forcible entry or forcible or unlawful detainer is required to appear and defend the action; increasing the damages that are awarded in such actions; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law provides that a person is guilty of forcible entry, forcible detainer  
2 or unlawful detainer for entering onto or taking possession of real property of  
3 another in certain circumstances. (NRS 40.230, 40.240, 40.250) Under existing law,  
4 the owner of real property upon which another person has forcibly entered or  
5 forcibly or unlawfully detained may file a civil action against that person for  
6 damages or compensation for the occupation of the premises, or both. The  
7 summons in such an action must be issued and served in the same manner as other  
8 cases in Nevada except that the court, judge or justice of the peace is allowed to  
9 shorten the time within which a defendant must appear and defend the action.  
10 (NRS 40.300)

11 This bill requires a defendant to appear and defend the action within 3 days  
12 after the service of the summons.

13 Existing law provides that upon finding in favor of the plaintiff in an action for  
14 forcible entry or forcible or unlawful detainer, the plaintiff is entitled to an award of  
15 any rent due and three times the amount of damages assessed by the court or the  
16 jury. (NRS 40.360)

17 This bill increases the amount of such judgments to three times the amount of  
18 rent due and three times the amount of damages assessed by the court or the jury.

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

1       **Section 1.** NRS 40.300 is hereby amended to read as follows:  
2       40.300 1. The plaintiff in his complaint, which shall be in  
3 writing, must set forth the facts on which he seeks to recover, and  
4 describe the premises with reasonable certainty and may set forth  
5 therein any circumstances of fraud, force or violence which may  
6 have accompanied the alleged forcible entry, or forcible or unlawful  
7 detainer, and claim damages therefor, or compensation for the  
8 occupation of the premises or both. In case the unlawful detainer  
9 charged ~~be~~ *is* after default in the payment of rent, the complaint  
10 must state the amount of such rent.

11       2. The summons shall be issued and served as in other cases ~~;~~  
12 ~~but the court, judge or justice of the peace may shorten the time~~  
13 ~~within which the~~ *except that:*

14       (a) *The* defendant shall be required to appear and defend the  
15 action ~~in which case the officer or person serving the summons~~  
16 ~~shall change the prescribed form thereof to conform to the time of~~  
17 ~~service as ordered; but where~~ *within 3 days after service of the*  
18 *summons; and*

19       (b) *Where* publication is necessary , the court shall direct  
20 publication for a period of not less than 1 week.

21       3. At any time after the filing of the complaint and issuance of  
22 summons, the court, upon application therefor, may issue a  
23 temporary writ of restitution , ~~;~~ provided:

24       (a) That the temporary writ of restitution shall not issue ex parte  
25 but only after the issuance and service of an order to show cause  
26 why a temporary writ of restitution shall not be issued and after the  
27 defendant has been given an opportunity to oppose the issuance of  
28 the temporary writ of restitution.

29       (b) That the temporary writ of restitution shall not issue until the  
30 court has had an opportunity to ascertain the facts sufficiently to  
31 enable it to estimate the probable loss to the defendant and fix the  
32 amount of a bond to indemnify the party or parties against whom the  
33 temporary writ may be issued.

34       (c) That the temporary writ of restitution shall not issue until  
35 there has been filed with the approval of the court a good and  
36 sufficient bond of indemnification in the amount fixed by the court.

37       **Sec. 2.** NRS 40.360 is hereby amended to read as follows:

38       40.360 1. Judgment. If, upon the trial, the verdict of the  
39 jury, or, if the case ~~be~~ *is* tried without a jury, the finding of the  
40 court, ~~be~~ *is* in favor of the plaintiff and against the defendant,  
41 judgment shall be entered for the restitution of the premises . ~~;~~ ~~and,~~  
42 ~~if~~ *If* the proceeding ~~be~~ *is* for unlawful detainer after neglect or



1 failure to perform any condition or covenant of the lease or  
2 agreement under which the property is held, or after default in the  
3 payment of rent, the judgment shall also declare the forfeiture of  
4 such lease or agreement.

5 2. Damages. The jury or the court, if the proceeding ~~is~~  
6 tried without a jury, shall also assess the damages occasioned to the  
7 plaintiff by any forcible entry, or by any forcible or unlawful  
8 detainer, and any amount found due the plaintiff by reason of waste  
9 of the premises by the defendant during the tenancy, alleged in the  
10 complaint and proved on the trial, and find the amount of any rent  
11 due, if the alleged unlawful detainer ~~is~~ after default in the  
12 payment of rent . ~~and the judgment~~ **Judgment** shall be rendered  
13 against the defendant guilty of the forcible entry, or forcible or  
14 unlawful detainer, for **three times the amount of** the rent **due** and  
15 for three times the amount of the damages thus assessed.

16 3. Execution and enforcement. When the proceeding is for an  
17 unlawful detainer after default in the payment of the rent, and the  
18 lease or agreement under which the rent is payable has not by its  
19 terms expired, execution upon the judgment shall not be issued until  
20 the expiration of 5 days after the entry of the judgment, within  
21 which time the tenant, or any subtenant, or any mortgagee of the  
22 term, or other party interested in its continuance, may pay into court  
23 for the landlord the amount of the judgment and costs, and  
24 thereupon the judgment shall be satisfied and the tenant ~~is~~  
25 restored to his estate . ~~but, if~~ **If** payment, as herein provided, ~~is~~  
26 **is** not made within the 5 days, the judgment may be enforced for its  
27 full amount and for the possession of the premises. In all other cases  
28 , the judgment may be enforced immediately.



