

SUMMARY—Revises provisions relating to real property. (BDR 3-222)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: No.

AN ACT relating to real property; defining the terms “squatter” and “tenant” for certain purposes relating to summary proceedings for obtaining possession of real property, a recreational vehicle or a mobile home; reducing the period for seeking reentry of a dwelling and the return of personal property contained therein under certain circumstances; revising provisions governing the crime of unlawful occupancy; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law makes it a crime to engage in housebreaking or unlawful occupancy. (NRS 205.0813, 205.0817) Existing law also sets forth a procedure by which: (1) an owner of a dwelling that is the object of a housebreaking or unlawful occupancy may immediately retake possession and change the locks on the dwelling; and (2) an unlawful or unauthorized occupant who has been locked out of such a dwelling may seek reentry. (NRS 40.412, 40.416)

Section 1 of this bill defines the terms “squatter” and “tenant” for certain purposes relating to summary proceedings for obtaining possession of real property, a recreational vehicle or a mobile home and clarifies that a squatter is not a tenant for such purposes. **Section 2** of this bill reduces



the period for which: (1) an unlawful or unauthorized occupant who has been locked out of a dwelling has a right to contest the matter by filing a verified complaint seeking reentry; and (2) the owner of the dwelling is required to store the personal property of the unlawful or unauthorized occupant. **Section 3** of this bill clarifies the process by which an unlawful or unauthorized occupant who has been locked out may seek the return of his or her personal property. **Section 4** of this bill expands the crime of unlawful occupancy to make it unlawful to take up residence in a dwelling, regardless of whether it is uninhabited or vacant, if a person knows or has reason to believe that such residency is without permission of the owner of the dwelling or an authorized representative of the owner.

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

Section 1. NRS 40.215 is hereby amended to read as follows:

40.215 As used in NRS 40.215 to 40.425, inclusive, unless the context requires otherwise:

1. “Dwelling” or “dwelling unit” means a structure or part thereof that is occupied, or designed or intended for occupancy, as a residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.
2. “Landlord’s agent” means a person who is hired or authorized by the landlord or owner of real property to manage the property or dwelling unit, to enter into a rental agreement on behalf of



the landlord or owner of the property or who serves as a person within this State who is authorized to act for and on behalf of the landlord or owner for the purposes of service of process or receiving notices and demands. A landlord's agent may also include a successor landlord or a property manager as defined in NRS 645.0195.

3. "Mobile home" means every vehicle, including equipment, which is constructed, reconstructed or added to in such a way as to have an enclosed room or addition occupied by one or more persons as a residence or sleeping place and which has no foundation other than wheels, jacks, skirting or other temporary support.

4. "Mobile home lot" means a portion of land within a mobile home park which is rented or held out for rent to accommodate a mobile home.

5. "Mobile home park" or "park" means an area or tract of land where two or more mobile homes or mobile home lots are rented or held out for rent. "Mobile home park" or "park" does not include those areas or tracts of land, whether within or outside of a park, where the lots are held out for rent on a nightly basis.

6. "Premises" includes a mobile home.

7. "Recreational vehicle" means a vehicular structure primarily designed as temporary living quarters for travel, recreational or camping use, which may be self-propelled or mounted upon or drawn by a motor vehicle.

8. "Recreational vehicle lot" means a portion of land within a recreational vehicle park, or a portion of land so designated within a mobile home park, which is rented or held out for rent to accommodate a recreational vehicle overnight or for less than 3 months.



9. “Recreational vehicle park” means an area or tract of land where lots are rented or held out for rent to accommodate a recreational vehicle overnight or for less than 3 months.

10. “Short-term tenancy” means a tenancy in which rent is reserved by a period of 1 week and the tenancy has not continued for more than 45 days.

11. “Squatter” means a person who violates the provisions of NRS 205.0813 or 205.0817. Notwithstanding any other provision of law, the term includes, without limitation, a person who enters onto or intrudes upon real property without the permission of the owner and continues to occupy the property without title, right or permission of the owner or an authorized representative of the owner.

12. “Tenant” means an occupant of real property, a dwelling or dwelling unit or a recreational vehicle or mobile home. The term does not include a squatter.

Sec. 2. NRS 40.412 is hereby amended to read as follows:

40.412 1. Except as otherwise provided in subsection 4, in addition to the remedy provided in NRS 40.290 to 40.420, inclusive, when all known unlawful or unauthorized adult occupants of a dwelling have been arrested for housebreaking or unlawful occupancy and all minor occupants are taken into the custody of the State, the owner of the dwelling may retake possession and change the locks on the dwelling.

2. At the time an owner of a dwelling retakes possession or changes the locks of a dwelling pursuant to subsection 1, the owner or an authorized representative of the owner shall post a written notice on the dwelling. The notice must:

(a) Identify the address of the dwelling;



- (b) Identify the court that has jurisdiction over any matter relating to the dwelling;
- (c) Identify the date on which the owner took possession of the dwelling pursuant to subsection 1 or changed the locks; and
- (d) Advise the unlawful or unauthorized occupant that:
 - (1) One or more locks on the dwelling have been changed as the result of an arrest for housebreaking or unlawful occupancy.
 - (2) The unlawful or unauthorized occupant has the right to contest the matter by filing a verified complaint for reentry with the court *pursuant to NRS 40.416* within ~~[24]~~ 5 calendar days after the date indicated in paragraph (c). The complaint must be served upon the owner of the dwelling or the authorized representative of the owner at the address provided to the court with the filing of the written notice pursuant to subsection 3.
 - (3) Reentry of the property without a court order is a criminal offense ~~[.]~~ punishable ~~by up to 4 years in prison.]~~ *pursuant to NRS 205.082.*
 - (4) Except as otherwise provided in this subparagraph, the owner of the dwelling shall provide safe storage of any personal property which remains on the property. The owner may dispose of any personal property which remains on the property after ~~[24]~~ 5 calendar days from the date indicated in paragraph (c) unless within that time the owner receives an affidavit or notice of hearing pursuant to NRS ~~[40.414.]~~ *40.416*. The unlawful or unauthorized occupant may recover his or her personal property by filing an affidavit with the court pursuant to NRS ~~[40.414]~~ *40.416* within ~~[24]~~ 5 calendar days after the date indicated in paragraph (c). The owner is entitled to



payment of the reasonable and actual costs of inventory, moving and storage before releasing the personal property to the occupant.

3. The notice posted pursuant to subsection 2 must remain posted on the dwelling for not less than ~~24~~ 5 calendar days. A copy of the notice must be filed with the court not later than 1 day after any locks are changed on the dwelling and must be accompanied by a statement which includes an address for service of any documents on the owner of the dwelling or an authorized representative of the owner.

4. This section does not apply if one or more unlawful or unauthorized occupants is occupying the dwelling.

5. As used in this section:

(a) "Housebreaking" has the meaning ascribed to it in NRS 205.0813.

(b) "Unlawful occupancy" has the meaning ascribed to it in NRS 205.0817.

Sec. 3. NRS 40.416 is hereby amended to read as follows:

40.416 1. If the owner of a dwelling or an authorized representative of the owner locks an occupant out of the dwelling pursuant to NRS 40.412, the occupant may recover possession of the dwelling *and his or her personal property* as provided in this section.

2. The occupant must file with the justice court of the township in which the dwelling is located a verified complaint for reentry, specifying:

(a) The facts of the lockout by the owner of the dwelling or the authorized representative of the owner; and

(b) The legal basis upon which reentry into the dwelling is warranted.



3. The court shall, after notice to both parties, hold a trial on the occupant's verified complaint for reentry not later than 10 judicial days after the date on which the occupant files the verified complaint for reentry.

4. If the court finds that an unjustified lockout has occurred, the court must issue a writ of restitution, restoring possession of the dwelling *and any personal property* to the occupant.

5. A party may appeal from the court's judgment at the trial on the verified complaint for reentry in the same manner as a party may appeal a judgment in an action for forcible detainer.

6. If the owner of the dwelling or the person on whom a writ of restitution is served fails to immediately comply with the writ or later disobeys the writ, the failure is grounds for contempt of court against the owner or the person on whom the writ was served, under chapter 22 of NRS.

7. This section does not affect:

(a) The right of any party to pursue a separate cause of action under this chapter or chapter 118A of NRS if the court finds that a landlord and tenant relationship exists between the parties;
or

(b) The rights of an owner or occupant in a forcible detainer, unlawful detainer or forcible entry and detainer action.

Sec. 4. NRS 205.0817 is hereby amended to read as follows:

205.0817 1. A person who takes up residence in ~~an uninhabited or vacant~~ a dwelling and knows or has reason to believe that such residency is without permission of the owner of the dwelling or an authorized representative of the owner is guilty of unlawful occupancy.



2. A person is presumed to know that the residency described in subsection 1 is without the permission of the owner of the dwelling or an authorized representative of the owner unless the person provides a written rental agreement that:

(a) Is notarized or is signed by an authorized agent of the owner who at the time of signing holds a permit to engage in property management pursuant to chapter 645 of NRS; and

(b) Includes the current address and telephone number of the owner or his or her authorized representative.

3. A person convicted of unlawful occupancy is guilty of a gross misdemeanor. A person convicted of unlawful occupancy and who has been convicted three or more times of unlawful occupancy is guilty of a category D felony and shall be punished as provided in NRS 193.130.

4. A person who is accused of unlawful occupancy pursuant to subsection 1 and has previously been convicted two times of housebreaking, unlawful occupancy or any lesser included or related offense, or any combination thereof, arising from the same set of facts is presumed to have obtained residency of the dwelling with the knowledge that:

(a) Any asserted lease is invalid; and

(b) Neither the owner nor an authorized representative of the owner permitted the residency.

