

## **Nevada Legal Updates: 2011 Legislative Changes to Commercial Tenancies**

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Prior to the enactment of AB 398 on June 4, 2011, there were no Nevada laws that dealt specifically with commercial landlord-tenant issues. Instead, the only governing law for landlord-tenant issues was NRS Chapter 40, which primarily deals with residential properties. AB 398 now creates a new chapter in Title 10 of the NRS relating solely to commercial tenancies.

### **Section 15.5: Jurisdiction**

AB 398 provides that justice court has jurisdiction over any civil action concerning the removal of a tenant from commercial premises in which no party is seeking monetary damages. However, if a landlord combines an action for eviction and monetary damages, jurisdiction would depend on the amount of controversy.

### **Section 16: Abandoned Property**

Landlord may now dispose of personal property, regardless of its character, with only *14 days* of written notice to tenant by “certified mail, return receipt requested.” AB 398 also permits the landlord to recover “his or her reasonable costs out of the abandoned personal property or the value thereof.”

Exception: Vehicles must be specifically disposed pursuant to NRS Chapter 487.

### **Section 14: Unlawful Removal of Tenant:**

AB 398 also addresses unlawful removal of tenants in commercial properties. Landlords may not remove:

- A door, window, attic hatchway cover;
- A lock, latch, hinge, hinge pin, doorknob; or
- Furniture, fixtures, or appliances supplied by the landlord, unless landlord removes the item for a bona fide repair or replacement, which must be promptly performed.

Moreover, a landlord may not shut off utilities for which the tenant pays directly to the utility company, unless interruption is caused by construction, bona fide repairs, or emergency.

## **Section 14: Landlord Can Change Locks Without a Court Order for Eviction!**

AB 398 now allows a landlord or its agent to change the locks on a commercial property, if tenant is delinquent in rent payment. No court order is necessary. The only requirement for the landlord to change the locks is to post a notice on the property for a minimum of 5 days, informing the tenant where the new keys may be obtained. The landlord is also allowed to demand *all past-due rent* prior to releasing the new keys to tenants.

If the tenant believes he was unlawfully removed by the landlord, he may file in justice court a verified complaint for reentry. A hearing will be scheduled and tenant is required to testify under oath to the court the facts of the alleged unlawful lockout. If the court reasonably believes that lockout has occurred unlawfully, the tenant will be required to post a bond in an amount equal to 1 month of rent and the court may issue a temporary writ of restitution.

If the landlord is found to have violated section 14, tenant may recover possession of commercial premises, recover actual damages, recover one month's rent or \$500 whichever is greater, and attorney's fees and costs, less any delinquent rents.

On the other hand, if tenant is found to have testified in bad faith, landlord may collect the same damages, less any sums for which landlord is liable to the tenant.

### **Rental Agreement vs. Section 14 of AB 398**

AB 398 specifically provides that a rental agreement supersedes section 14 of AB 398 in case of any conflicts. Therefore, it is important that landlords and tenants review their existing commercial lease agreements – or review proposed leases prior to entering into an agreement – in light of these recent changes in commercial tenancies.

AB 398 will take effect on October 1, 2011. [Click this link for a copy of AB 398.](#)

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