

## CHAPTER 118 - DISCRIMINATION IN HOUSING; LANDLORD AND TENANT

### DISCRIMINATION IN HOUSING

<a href="#">SECTION 118.020</a>	Declaration of public policy of Ely Shoshone Tribe.
<a href="#">SECTION 118.030</a>	Definitions.
<a href="#">SECTION 118.045</a>	“Disability” defined.
<a href="#">SECTION 118.050</a>	“Discriminate” defined.
<a href="#">SECTION 118.060</a>	“Dwelling” defined.
<a href="#">SECTION 118.065</a>	“Familial status” defined.
<a href="#">SECTION 118.070</a>	“Family” defined.
<a href="#">SECTION 118.080</a>	“Person” defined.
<a href="#">SECTION 118.090</a>	“Rent” defined.
<a href="#">SECTION 118.095</a>	Regulations.
<a href="#">SECTION 118.100</a>	Prohibited acts and practices.
<a href="#">SECTION 118.101</a>	Modification of dwelling by person with disability.
<a href="#">SECTION 118.103</a>	Construction of certain covered multifamily dwellings to provide access to person with disability.
<a href="#">SECTION 118.105</a>	Landlord may not refuse to rent dwelling because person with disability will reside with animal that provides assistance, support or service.
<a href="#">SECTION 118.110</a>	Aggrieved person may file complaint.
<a href="#">SECTION 118.115</a>	Effect of violation of state or federal laws in proceeding for possession of dwelling.
<a href="#">SECTION 118.120</a>	Actions for injunction or damages.

### ABANDONMENT OF REAL PROPERTY BY TENANT

<a href="#">SECTION 118.171</a>	Definitions.
<a href="#">SECTION 118.175</a>	Liability of tenant.
<a href="#">SECTION 118.185</a>	Date of termination of rental agreement.
<a href="#">SECTION 118.195</a>	Notice by landlord of his belief that property has been abandoned; property deemed abandoned unless disputed by tenant.
<a href="#">SECTION 118.205</a>	Requirements for notice.

### DISCRIMINATION IN HOUSING

#### **SECTION 118.020 Declaration of public policy of Ely Shoshone Tribe.**

1. It is hereby declared to be the public policy of the Ely Shoshone Tribe that all people on the Reservation have equal opportunity to inherit, purchase, lease, rent, sell, hold and convey non-tribal trust property without discrimination, distinction or restriction because of race, religious creed, color, national origin, disability, ancestry, familial status or sex.

2. Nothing in this chapter shall be deemed to render enforceable a conveyance or other contract made by a person who lacks the capacity to contract.

3. Nothing in this chapter shall prohibit the tribe from limiting the use of tribal trust property.

**SECTION 118.030 Definitions.** As used in [SECTION 118.010](#) to [118.120](#), inclusive, unless the context otherwise requires, the words and terms defined in [SECTION 118.040](#) to [118.090](#), inclusive, have the meanings ascribed to them in those sections.

#### **SECTION 118.045 “Disability” defined.** “Disability” means, with respect to a person:

1. A physical or mental impairment that substantially limits one or more of the major life activities of the person;

2. A record of such an impairment; or

3. Being regarded as having such an impairment.

**SECTION 118.050 “Discriminate” defined.** “Discriminate” includes both “segregate” and “separate.”

**SECTION 118.060 “Dwelling” defined.**

1. “Dwelling” means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

2. “Dwelling” does not include:

(a) A single-family house sold or rented by an owner if:

(1) The owner does not own more than three single-family houses at any one time or the owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three single-family houses at any one time; and

(2) The house was sold or rented without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, real estate broker-salesman or real estate salesman licensed pursuant to [chapter 645](#) of the Nevada Revised Statutes.

(b) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by not more than four families living independently of each other if the owner actually maintains and occupies one of the living quarters as his residence and the owner has not within the preceding 12-month period participated:

(1) As the principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; or

(2) As an agent, otherwise than in the sale of his own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein.

3. The sale of a single-family house by an owner not residing in that house at the time of the sale or who was not the most recent resident of that house before the sale does not bring the house within the definition of “dwelling” unless there is more than one such sale within any 24-month period.

**SECTION 118.065 “Familial status” defined.** “Familial status” means the fact that a person:

1. Lives with a child under the age of 18 and has:

(a) Lawful custody of the child; or

(b) Written permission to live with the child from the person who has lawful custody of the child;

2. Is pregnant; or

3. Has begun a proceeding to adopt or otherwise obtain lawful custody of a child.

**SECTION 118.070 “Family” defined.** “Family” includes a single individual.

**SECTION 118.080 “Person” defined.** “Person” includes the Ely Shoshone Tribe.

**SECTION 118.090 “Rent” defined.** “Rent” means rent, lease, sublease, let or otherwise grant for a consideration the right to occupy premises not owned by the occupant.

**SECTION 118.095 Regulations.** The Tribe may adopt regulations, consistent with the fair housing provisions of 42 U.S.C. §§ 3601 et seq., to carry out the provisions of [SECTION 118.010](#) to [118.120](#), inclusive.

**SECTION 118.100 Prohibited acts and practices.**

1. Except as otherwise provided in subsection 2, a person shall not, because of race, religious creed, color, national origin, disability, ancestry, familial status or sex:

(a) Refuse to sell or rent or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person.

(b) Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, including the amount of breakage or brokerage fees, deposits or other undue penalties, or in the provision of services or facilities in connection therewith.

(c) Make, print or publish, or cause to be made, printed or published, any notice, statement or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination, or an intention to make any preference, limitation or discrimination. As used in this paragraph, "dwelling" includes a house, room or unit described in subsection 2 or 3 of [SECTION 118.060](#).

(d) Represent to any person because of race, religious creed, color, national origin, disability, ancestry, familial status or sex that any dwelling is not available for inspection, sale or rental when the dwelling is in fact so available.

(e) For profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person of a particular race, religious creed, color, national origin, disability, ancestry, familial status or sex.

(f) Coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected in this chapter.

2. The provisions of subsection 1 do not prohibit any act that is not prohibited by the provisions of the Fair Housing Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended.

#### **SECTION 118.101 Modification of dwelling by person with disability.**

1. A person may not refuse to:

(a) Authorize a person with a disability to make reasonable modifications to a dwelling which he occupies or will occupy if:

(1) The person with the disability pays for the modifications; and

(2) The modifications are necessary to ensure that the person with the disability may use and enjoy the dwelling; or

(b) Make reasonable accommodations in rules, policies, practices or services if those accommodations are necessary to ensure that the person with the disability may use and enjoy the dwelling.

2. A landlord may, as a condition for the authorization of such a modification, reasonably require the person who requests the authorization, upon the termination of his occupancy, to restore the dwelling to the condition that existed before the modification, reasonable wear and tear excepted.

3. Except as otherwise provided in subsection 4, a landlord may not increase the amount of security he customarily requires a person to deposit because that person has requested authorization to modify a dwelling pursuant to subsection 1.

4. If a person requests authorization to modify a dwelling pursuant to subsection 1, the landlord may require that person to deposit a reasonable amount of security in addition to the amount he usually requires if the additional amount:

(a) Is necessary to ensure the restoration of the dwelling pursuant to subsection 2;

(b) Does not exceed the actual cost of the restoration; and

(c) Is deposited by the landlord in an interest-bearing account. Any interest earned on the additional amount must be paid to the person who requested the authorization.

5. As used in this section, "security" has the meaning ascribed to it in [SECTION 118A.240](#).

#### **SECTION 118.103 Construction of certain covered multifamily dwellings to provide access to person with disability.**

1. A covered multifamily dwelling which is designed and constructed for occupancy on or after March 13, 1991, must be constructed in such a manner that the dwelling contains at least one entrance which is accessible to a person with a disability unless it is impracticable to so design or construct the dwelling because of the terrain or unusual characteristics of the site upon which it is constructed.

2. A covered multifamily dwelling which contains at least one entrance which is accessible to a person with a disability must be constructed in such a manner that:

(a) The common areas of the dwelling are readily accessible to and usable by a person with a disability;

(b) The doors of the dwelling are sufficiently wide to allow a person with a disability to enter and exit in a wheelchair;

(c) The units of the dwelling contain:

- (1) An accessible route into and through the dwelling;
  - (2) Reinforcements in the bathroom walls so that bars for use by a person with a disability may be installed therein; and
  - (3) Kitchens and bathrooms in which a person in a wheelchair may maneuver; and
  - (d) The light switches, electrical outlets, thermostats or any other environmental controls in the units of the dwelling are placed in such a manner that they are accessible to a person in a wheelchair.
3. As used in this section, “covered multifamily dwelling” means:
- (a) A building which consists of four or more units and contains at least one elevator; or
  - (b) The units located on the ground floor of any other building which consists of four or more units.

**SECTION 118.105 Landlord may not refuse to rent dwelling because person with disability will reside with animal that provides assistance, support or service.**

1. Except as otherwise provided in subsection 2, a landlord may not refuse to rent a dwelling subject to the provisions of [chapter 118A](#) to a person with a disability solely because an animal will be residing with the prospective tenant in the dwelling if the animal assists, supports or provides service to the person with a disability.
2. A landlord may require proof that an animal assists, supports or provides service to the person with a disability. This requirement may be satisfied, without limitation, by a statement from a provider of health care that the animal performs a function that ameliorates the effects of the person’s disability.

**SECTION 118.110 Aggrieved person may file complaint.** Any aggrieved person who claims to have been injured by a discriminatory housing practice or who believes that he will be injured by such a practice that is about to occur may file a complaint with the Council in the manner prescribed in [SECTION 233.160](#) of the Nevada Revised Statutes.

**SECTION 118.115 Effect of violation of state or federal laws in proceeding for possession of dwelling.** A tenant has a defense in a summary proceeding or other action for possession of a dwelling if the landlord’s attempt to terminate the tenancy or regain possession violates any provision of [SECTION 118.010](#) to [118.120](#), inclusive, tribal laws, or the Fair Housing Act of 1968, 42 U.S.C. §§ 3601 et seq.

**SECTION 118.120 Actions for injunction or damages.** Any person may commence an action in any tribal court in this state to enforce the provisions of [SECTION 118.100](#), [207.300](#), [207.310](#), [645.321](#) or [645C.480](#) of the Nevada Revised Statutes not less than 1 year after the date of the occurrence or termination of an alleged violation of any of those provisions. If the court determines that the provisions of any of those sections have been violated by the defendant, and that the plaintiff has been injured thereby, it may enjoin the defendant from continued violation or may take such other affirmative action as may be appropriate, and, in the case of a prevailing plaintiff, may award to the plaintiff actual damages, punitive damages, court costs and a reasonable attorney’s fee.

**ABANDONMENT OF REAL PROPERTY BY TENANT**

**SECTION 118.171 Definitions.** As used in [SECTION 118.171](#) to [118.205](#), inclusive, unless the context otherwise requires:

1. “Real property” includes an apartment, a dwelling, a mobile home that is owned by a landlord and located on property owned by the landlord and commercial premises.
2. “Rental agreement” means an agreement to lease or sublease real property for a term less than life which provides for the periodic payment of rent.
3. “Tenant” means a person who has the right to possess real property pursuant to a rental agreement.

**SECTION 118.175 Liability of tenant.** If a tenant of real property abandons the property, the landlord shall make reasonable efforts to rent it at a fair rental. If the landlord rents the property for a term beginning before the expiration of the rental agreement pursuant to its terms or if, despite his reasonable efforts, the landlord is unable to rent the property before the rental agreement is otherwise terminated, the former tenant is liable for any actual damages of the landlord which may result from the abandonment. If the landlord fails to make reasonable efforts to rent the property at a fair rental, the former tenant is liable for any actual damages of the landlord occurring before the landlord had reason to believe that the property

was abandoned. If the tenancy is from month to month or week to week, the term of the rental agreement for this purpose is deemed to be a month or a week, as the case may be.

**SECTION 118.185 Date of termination of rental agreement.** If a tenant of real property abandons the property before the expiration of the rental agreement pursuant to its terms, the rental agreement terminates when:

1. The tenant provides his landlord with notice of his intention to abandon the property, and the landlord accepts the surrender of the property;
  2. His landlord rents the property to another tenant;
  3. The property is deemed to be abandoned pursuant to [SECTION 118.195](#);
  4. The rental agreement is terminated by court order or pursuant to the provisions of [chapter 118A](#) of SECTION; or
  5. The rental agreement expires pursuant to its terms,
- ↪ whichever occurs first.

**SECTION 118.195 Notice by landlord of his belief that property has been abandoned; property deemed abandoned unless disputed by tenant.**

1. If a landlord of real property reasonably believes that his tenant has abandoned the property, and the tenant is in default in the payment of rent, the landlord may serve the tenant with a written notice of his belief that the property has been abandoned. If the tenant fails, within 5 days after service of the notice by the landlord, to:

- (a) Pay the rent due; and
- (b) Provide the landlord with a written notice:
  - (1) Stating his intention not to abandon the property; and
  - (2) Setting forth an address at which the tenant may be served with legal process,

↪ the property shall be deemed abandoned by the tenant and the rental agreement shall be deemed terminated. The property shall not be deemed abandoned if the tenant pays the rent due and provides the written notice within the prescribed time.

2. Real property shall not be deemed abandoned pursuant to this section if the tenant proves that at the time the landlord served notice:

- (a) The tenant was not in default in the payment of rent; or
- (b) It was not reasonable for the landlord to believe that the tenant had abandoned the real property. The fact that the landlord knew that the tenant left personal property on the real property does not, of itself, justify a finding that the landlord did not reasonably believe that the tenant had abandoned the real property.

3. The provisions of this section do not preclude a landlord or tenant from otherwise proving that real property has been abandoned.

**SECTION 118.205 Requirements for notice.** A notice provided by a landlord to a tenant pursuant to [SECTION 118.195](#):

1. Must advise the tenant of the provisions of that section and specify:
  - (a) The address or other location of the property;
  - (b) The date upon which the property will be deemed abandoned and the rental agreement terminated;and
- (c) An address for payment of the rent due and delivery of notice to the landlord.
2. Must be served pursuant to subsection 1 of [SECTION 40.280](#).
3. May be included in the notice required by subsection 1 of [SECTION 40.253](#).