

AMENDMENTS TO LB175

(Amendments to Standing Committee amendments, AM2504)

Introduced by Wayne, 13.

1 1. Strike amendments 1, 2, and 3 and insert the following new
2 amendment:

3 1. Strike the original sections and insert the following new
4 sections:

5 Section 1. Sections 1 to 6 of this act shall be known and may be
6 cited as the Residential Tenant Clean Slate Act.

7 Sec. 2. For purposes of the Residential Tenant Clean Slate Act:

8 (1) Clean slate relief means the sealing of records under section 5
9 of this act;

10 (2) Eviction proceeding means an action for:

11 (a) Forcible entry and detainer involving a residential tenancy
12 under sections 25-21,219 to 25-21,235; or

13 (b) Possession of any premises subject to the Uniform Residential
14 Landlord and Tenant Act or the Mobile Home Landlord and Tenant Act;

15 (3) Landlord includes a landlord as defined in section 76-1410 and a
16 landlord as defined in section 76-1462;

17 (4) Residential tenancy means a tenancy, however created, between a
18 landlord and a tenant for a dwelling unit;

19 (5) Tenant means a current or former occupant of a dwelling unit
20 pursuant to a residential tenancy;

21 (6) Trial court means the trial court that presided over an eviction
22 proceeding; and

23 (7) When reference in this section is made to a definition found in
24 both the Uniform Residential Landlord and Tenant Act and the Mobile Home
25 Landlord and Tenant Act, the definition relevant to the type of tenant at
26 issue applies for purposes of the Residential Tenant Clean Slate Act.

1 Sec. 3. If a trial court issues an order dismissing an eviction
2 proceeding against a tenant, the trial court shall immediately issue an
3 order under section 5 of this act granting clean slate relief to such
4 tenant.

5 Sec. 4. (1) A tenant may petition the trial court for clean slate
6 relief for an eviction proceeding at any time if:

7 (a) The proceeding meets the requirements for clean slate relief
8 under section 3 of this act, but the record remains public;

9 (b) Following the eviction proceeding, a judgment granting the writ
10 of restitution against the tenant is reversed or vacated; or

11 (c) Following the eviction proceeding, a writ of restitution is
12 never executed.

13 (2) The trial court shall grant the petition without further hearing
14 if the requirements of this section have been met.

15 (3) Upon granting a petition under this section, the court shall
16 issue an order for clean slate relief under section 5 of this act.

17 (4) An order granting or denying a petition under this section is a
18 final, appealable order for purposes of section 25-1902.

19 (5) This section applies to all eviction proceedings, without regard
20 to the date of filing or conclusion of the eviction proceeding, including
21 those occurring prior to the operative date of this act.

22 Sec. 5. (1) In issuing an order for clean slate relief, the court
23 shall:

24 (a) Order that all records relating to the eviction proceeding are
25 not part of the public record and shall not be disseminated; and

26 (b) If the case was transferred from one court to another, send
27 notice of the order to seal the record to the transferring court.

28 (2) Following entry of a court order granting clean slate relief, a
29 court shall:

30 (a) Respond to a public inquiry in the manner as if there had not
31 been an eviction proceeding involving the tenant; and

1 (b) Not disseminate any information regarding such eviction
2 proceeding.

3 (3)(a) A tenant shall not be questioned with respect to any eviction
4 proceeding for which the record is sealed under this section:

5 (i) In any application for housing, a lease, employment, bonding,
6 licensure, or education;

7 (ii) With respect to an application or request for any other right
8 or privilege;

9 (iii) In any appearance as a witness; or

10 (iv) In any other public inquiry.

11 (b) If an inquiry is made in violation of this subsection, the
12 tenant may respond as if the eviction proceeding never occurred.

13 (4) In any application for housing, a landlord shall not consider a
14 tenant's prior eviction if clean slate relief has been granted for such
15 eviction.

16 Sec. 6. The State Court Administrator may adopt and promulgate
17 rules and regulations as necessary to carry out the Residential Tenant
18 Clean Slate Act.

19 Sec. 7. Section 76-1415, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 76-1415 (1) No rental agreement may provide that the tenant:

22 (a) Agrees to waive or to forego rights or remedies under the
23 Uniform Residential Landlord and Tenant Act or other federal or state
24 law;

25 (b) Authorizes any person to confess judgment on a claim arising out
26 of the rental agreement;

27 (c) Agrees to pay the landlord's or tenant's attorney's fees; or

28 (d) Agrees to the exculpation or limitation of any liability of the
29 landlord arising due to active and actionable negligence of the landlord
30 or to indemnify the landlord for that liability arising due to active and
31 actionable negligence or the costs connected therewith.

1 (2) A provision prohibited by subsection (1) of this section
2 included in a rental agreement is unenforceable. If a landlord
3 deliberately uses a rental agreement containing provisions known by him
4 or her to be prohibited, the tenant may recover actual damages sustained
5 by him or her and reasonable attorney's fees.

6 Sec. 8. Section 76-1441, Revised Statutes Cumulative Supplement,
7 2022, is amended to read:

8 76-1441 (1) The person seeking possession shall file a complaint for
9 restitution with the clerk of the district or county court. The complaint
10 shall contain (a) the specific statutory authority under which possession
11 is sought; (b) the facts, with particularity, on which he or she seeks to
12 recover; (c) a reasonably accurate description of the premises; and (d)
13 the requisite compliance with the notice provisions of the Uniform
14 Residential Landlord and Tenant Act. The complaint may notify the tenant
15 that personal property remains on the premises and that it may be
16 disposed of pursuant to section 69-2308 or subsection (5) of section
17 76-1414. The complaint may contain a demand for a trial by jury. The
18 complaint may also contain other causes of action relating to the
19 tenancy, but such causes of action shall be answered and tried
20 separately, if requested by either party in writing.

21 (2) The person seeking possession pursuant to subsection (4) of
22 section 76-1431 shall include in the complaint the incident or incidents
23 giving rise to the suit for recovery of possession.

24 Sec. 9. Section 76-1442, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 76-1442 The summons shall be issued and directed, with a copy of the
27 complaint attached thereto, and shall state the cause of the complaint,
28 the time and place of trial of the action for possession, answer day for
29 other causes of action, ~~and~~ notice that if the defendant fails to appear
30 judgment shall be entered against him or her, and notice that the
31 defendant has a right to a trial by jury and that the defendant may

1 demand a trial by jury if he or she so chooses. The summons may be served
2 and returned as in other cases or by any person, except that the summons
3 shall be served within three days, excluding nonjudicial days, from the
4 date of issuance and shall be returnable within five days, excluding
5 nonjudicial days, from the date of issuance. The person making the
6 service shall file with the court an affidavit stating with particularity
7 the manner in which he or she made the service. If diligent efforts have
8 been made to serve the summons in the manner provided in sections
9 25-505.01 to 25-516.01 but such efforts were unsuccessful, the summons
10 may be served in the manner provided in section 76-1442.01.

11 Sec. 10. Section 76-1445, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 76-1445 On or before the day fixed for his or her appearance, the
14 defendant may appear and answer and assert any legal or equitable
15 defense, setoff, or counterclaim and may demand a trial by jury. If the
16 defendant has not demanded a trial by jury by the time of his or her
17 first appearance, the court shall inform the defendant of the right to a
18 trial by jury and, if the action is filed in county court, shall inquire
19 whether the defendant demands a trial by jury or elects to have the
20 action tried by the court without a jury.

21 Sec. 11. Section 76-1446, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 76-1446 (1) The proceedings shall be in all respects as in other
24 cases, except that:

25 (a) If the action for possession will be tried by the court without
26 a jury, the trial shall be held not less than ten nor more than fourteen
27 days after the issuance of the summons; or

28 (b) If the action for possession will be tried by a jury, the trial
29 shall be scheduled by the court as soon as is practicable for the proper
30 administration of justice. If, at the request of the tenant, the jury
31 trial is continued beyond the initial trial date as determined by the

1 court, the court may require the tenant to deposit with the clerk of the
2 court such rental payments as accrue during the pendency of the suit.
3 ~~Trial of the action for possession shall be held not less than ten nor~~
4 ~~more than fourteen days after the issuance of the summons. The action~~
5 ~~shall be tried by the court without a jury.~~

6 (2) If the plaintiff serves the summons in the manner provided in
7 section 76-1442.01, the action shall proceed as other actions for
8 possession except that a money judgment shall not be granted for the
9 plaintiff.

10 (3) If judgment is rendered against the defendant for the
11 restitution of the premises, the court (a) shall declare the forfeiture
12 of the rental agreement, and (b) shall, at the request of the plaintiff
13 or his or her attorney, issue a writ of restitution, directing the
14 constable or sheriff to restore possession of the premises to the
15 plaintiff on a specified date not more than ten days after issuance of
16 the writ of restitution. The plaintiff shall comply with the Disposition
17 of Personal Property Landlord and Tenant Act and subsection (5) of
18 section 76-1414 in the removal of personal property remaining on the
19 premises at the time possession of the premises is restored.

20 Sec. 12. Sections 1, 2, 3, 4, 5, and 6 of this act become operative
21 on January 1, 2025. The other sections of this act become operative on
22 their effective date.

23 Sec. 13. Original sections 76-1415, 76-1442, 76-1445, and 76-1446,
24 Reissue Revised Statutes of Nebraska, and section 76-1441, Revised
25 Statutes Cumulative Supplement, 2022, are repealed.