

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 120

Introduced by Lautenbaugh, 18.

Read first time January 11, 2013

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the Uniform Residential Landlord and Tenant
2 Act; to amend sections 76-1410, 76-1416, and 76-1431,
3 Reissue Revised Statutes of Nebraska; to redefine the
4 term tenant; to change deposit requirements; to provide a
5 penalty; and to repeal the original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 76-1410, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 76-1410 Subject to additional definitions contained in
4 the Uniform Residential Landlord and Tenant Act and unless the
5 context otherwise requires:

6 (1) Action includes recoupment, counterclaim, setoff,
7 suit in equity, and any other proceeding in which rights are
8 determined, including an action for possession.

9 (2) Building and housing codes include any law,
10 ordinance, or governmental regulation concerning fitness for
11 habitation, or the construction, maintenance, operation, occupancy,
12 use, or appearance of any premises, or dwelling unit. Minimum housing
13 code shall be limited to those laws, resolutions, or ordinances or
14 regulations, or portions thereof, dealing specifically with health
15 and minimum standards of fitness for habitation.

16 (3) Dwelling unit means a structure or the part of a
17 structure that is used as a home, residence, or sleeping place by one
18 person who maintains a household or by two or more persons who
19 maintain a common household.

20 (4) Good faith means honesty in fact in the conduct of
21 the transaction concerned.

22 (5) Landlord means the owner, lessor, or sublessor of the
23 dwelling unit or the building of which it is a part, and it also
24 means a manager of the premises who fails to disclose as required by
25 section 76-1417.

1 (6) Organization includes a corporation, government,
2 governmental subdivision or agency, business trust, estate, trust,
3 partnership, limited liability company, or association, two or more
4 persons having a joint or common interest, and any other legal or
5 commercial entity.

6 (7) Owner means one or more persons, jointly or
7 severally, in whom is vested (a) all or part of the legal title to
8 property, or (b) all or part of the beneficial ownership and a right
9 to present use and enjoyment of the premises; and the term includes a
10 mortgagee in possession.

11 (8) Person includes an individual, limited liability
12 company, or organization.

13 (9) Premises means a dwelling unit and the structure of
14 which it is a part and facilities and appurtenances therein and
15 grounds, areas, and facilities held out for the use of tenants
16 generally or whose use is promised to the tenant.

17 (10) Rent means all payments to be made to the landlord
18 under the rental agreement.

19 (11) Rental agreement means all agreements, written or
20 oral, between a landlord and tenant, and valid rules and regulations
21 adopted under section 76-1422 embodying the terms and conditions
22 concerning the use and occupancy of a dwelling unit and premises.

23 (12) Roomer means a person occupying a dwelling unit that
24 lacks a major bathroom or kitchen facility, in a structure where one
25 or more major facilities are used in common by occupants of the

1 dwelling units. Major facility in the case of a bathroom means
2 toilet, or either a bath or shower, and in the case of a kitchen
3 means refrigerator, stove, or sink.

4 (13) Single-family residence means a structure maintained
5 and used as a single dwelling unit. Notwithstanding that a dwelling
6 unit shares one or more walls with another dwelling unit, it is a
7 single-family residence if it has direct access to a street or
8 thoroughfare and shares neither heating facilities, hot water
9 equipment, nor any other essential facility or service with any other
10 dwelling unit.

11 (14) Tenant means ~~a the person entitled under named in a~~
12 rental agreement who is entitled to occupy a dwelling unit to the
13 exclusion of others. Only persons named in a rental agreement shall
14 be considered tenants and all other persons permanently residing on
15 the premises shall be considered trespassers.

16 Sec. 2. Section 76-1416, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 76-1416 (1) A landlord may not demand or receive
19 security, however denominated, in an amount or value in excess of one
20 ~~month's and one-half months'~~ periodic rent, except that a pet deposit
21 not in excess of ~~one-fourth one-half~~ of one month's periodic rent may
22 be demanded or received when appropriate, but this subsection shall
23 not be applicable to housing agencies organized or existing under the
24 Nebraska Housing Agency Act.

25 (2) Upon termination of the tenancy, property or money

1 held by the landlord as prepaid rent and security may be applied to
2 the payment of rent and the amount of damages which the landlord has
3 suffered by reason of the tenant's noncompliance with the rental
4 agreement or section 76-1421. The balance, if any, and a written
5 itemization shall be delivered or mailed to the tenant within
6 fourteen days after demand and designation of the location where
7 payment may be made or mailed.

8 (3) If the landlord fails to comply with subsection (2)
9 of this section, the tenant may recover the property and money due
10 him or her and reasonable attorney's fees.

11 (4) This section does not preclude the landlord or tenant
12 from recovering other damages to which he or she may be entitled
13 under the Uniform Residential Landlord and Tenant Act.

14 (5) The holder of the landlord's interest in the premises
15 at the time of the termination of the tenancy is bound by this
16 section.

17 Sec. 3. Section 76-1431, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 76-1431 (1) Except as provided in the Uniform Residential
20 Landlord and Tenant Act, if there is a noncompliance with section
21 76-1421 materially affecting health and safety or a material
22 noncompliance by the tenant with the rental agreement or any separate
23 agreement, the landlord may deliver a written notice to the tenant
24 specifying the acts and omissions constituting the breach and that
25 the rental agreement will terminate upon a date not less than thirty

1 days after receipt of the notice if the breach is not remedied in
2 fourteen days, and the rental agreement shall terminate as provided
3 in the notice subject to the following. If the breach is remediable
4 by repairs or the payment of damages or otherwise and the tenant
5 adequately remedies the breach prior to the date specified in the
6 notice, the rental agreement will not terminate. If substantially the
7 same act or omission which constituted a prior noncompliance of which
8 notice was given recurs within six months, the landlord may terminate
9 the rental agreement upon at least fourteen days' written notice
10 specifying the breach and the date of termination of the rental
11 agreement.

12 (2) If rent is unpaid when due and the tenant fails to
13 pay rent within three days after written notice by the landlord of
14 nonpayment and his or her intention to terminate the rental agreement
15 if the rent is not paid within that period of time, the landlord may
16 terminate the rental agreement.

17 (3) Except as provided in the Uniform Residential
18 Landlord and Tenant Act, the landlord may recover damages and obtain
19 injunctive relief for any noncompliance by the tenant with the rental
20 agreement or section 76-1421. If the tenant's noncompliance is
21 willful, the landlord may recover reasonable attorney's fees.

22 (4) Any person who intentionally, maliciously, or
23 recklessly fails to comply with subdivision (6) of section 76-1421
24 shall be guilty of criminal mischief under section 28-519.

25 Sec. 4. Original sections 76-1410, 76-1416, and 76-1431,

1 Reissue Revised Statutes of Nebraska, are repealed.