

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 796

Introduced by Harr, 8.

Read first time January 10, 2014

Committee: Judiciary

A BILL

1 FOR AN ACT relating to landlord and tenants; to amend sections
2 69-2303, 76-1414, 76-1441, and 76-1446, Reissue Revised
3 Statutes of Nebraska; to provide for disposition of
4 personal property upon the death of a tenant; to
5 harmonize provisions; and to repeal the original
6 sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 69-2303, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 69-2303 (1) ~~When~~ Except as otherwise provided in
4 subsection (5) of section 76-1414, when personal property remains on
5 the premises after a tenancy has terminated or expired and the
6 premises have been vacated by the tenant, the landlord shall give
7 written notice as provided in subsection (2) of this section to such
8 tenant and to any other person the landlord reasonably believes to be
9 the owner of the property.

10 (2)(a) The notice required by subsection (1) of this
11 section shall describe the property in a manner reasonably adequate
12 to permit the owner of the property to identify it. The notice may
13 describe all or a portion of the property, but the limitation of
14 liability provided by section 69-2309 shall not protect the landlord
15 from any liability arising from the disposition of property not
16 described in the notice, except that a trunk, valise, box, or other
17 container which is locked, fastened, or tied in a manner which deters
18 immediate access to its contents may be described as such without
19 describing its contents.

20 (b) The notice shall state that reasonable costs of
21 storage may be charged before the property is returned, the location
22 where the property may be claimed, and the date on or before which
23 such property must be claimed.

24 (c) The date specified in the notice shall be a date not
25 less than seven days after the notice is personally delivered or, if

1 mailed, not less than fourteen days after the notice is deposited in
2 the mail.

3 (d) The notice shall be given within six months of the
4 date of expiration of the lease of the property or the date of
5 discovery of the abandonment, whichever is later.

6 (3) The notice shall be personally delivered or sent by
7 first-class mail, postage prepaid, to the person to be notified at
8 his or her last-known address and, if there is reason to believe that
9 the notice sent to that address will not be received by him or her,
10 also delivered or sent to such other address, if any, known to the
11 landlord at which such person may reasonably be expected to receive
12 the notice.

13 Sec. 2. Section 76-1414, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 76-1414 (1) The landlord and tenant may include in a
16 rental agreement terms and conditions not prohibited by the Uniform
17 Residential Landlord and Tenant Act or other rule of law including
18 rent, term of the agreement, and other provisions governing the
19 rights and obligations of the parties.

20 (2) In absence of agreement, the tenant shall pay as rent
21 the fair rental value for the use and occupancy of the dwelling unit.

22 (3) Rent shall be payable without demand or notice at the
23 time and place agreed upon by the parties. Unless otherwise agreed,
24 rent is payable at the dwelling unit and periodic rent is payable at
25 the beginning of any term of one month or less and otherwise in equal

1 monthly installments at the beginning of each month. Unless otherwise
2 agreed, rent shall be uniformly apportionable from day to day.

3 (4) Unless the rental agreement fixes a definite term,
4 the tenancy shall be week to week in case of a roomer who pays weekly
5 rent, and in all other cases month to month.

6 (5) Upon request by a landlord, the tenant shall provide
7 and routinely update the name and contact information of a person who
8 is authorized by the tenant to enter the tenant's dwelling unit to
9 retrieve and store the tenant's personal property if the tenant dies.
10 Upon the death of a tenant, the landlord shall make a reasonable
11 attempt to contact the authorized person, if any, within ten days
12 after the death. The authorized person shall have ten days after
13 being contacted by the landlord to notify the landlord that he or she
14 will claim the tenant's property, and he or she will then have twenty
15 days after such notification to remove the tenant's personal property
16 from the dwelling unit or obtain the personal property from where it
17 is being stored. Upon presentation of a valid government-issued
18 identification confirming the identity of the authorized person, the
19 landlord shall grant the authorized person reasonable access to the
20 rented dwelling unit or to where the personal property is being
21 stored if not in the dwelling unit. If the tenant's personal property
22 is not entirely removed from the dwelling unit by an authorized
23 person, the landlord may dispose of the remaining property as
24 prescribed in the Disposition of Personal Property Landlord and
25 Tenant Act. If the landlord allows an authorized person to receive

1 the tenant's personal property as provided by this subsection, the
2 landlord has no further liability to the tenant, the tenant's estate,
3 or the tenant's heirs for lost, damaged, or stolen personal property.
4 If the landlord is unable to contact the authorized person at the
5 address and telephone number provided by the tenant, or the
6 authorized person fails to respond to the landlord's notification
7 within ten days after contact is made, the landlord may dispose of
8 the tenant's personal property as prescribed in the Disposition of
9 Personal Property Landlord and Tenant Act.

10 Sec. 3. Section 76-1441, Reissue Revised Statutes of
11 Nebraska, is amended to read:

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

24 Sec. 4. Section 76-1446, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 76-1446 Trial of the action for possession shall be held
2 not less than ten nor more than fourteen days after the issuance of
3 the summons. The action shall be tried by the court without a jury.
4 If the plaintiff serves the summons in the manner provided in section
5 76-1442.01, the action shall proceed as other actions for possession
6 except that a money judgment shall not be granted for the plaintiff.
7 If judgment is rendered against the defendant for the restitution of
8 the premises, the court shall declare the forfeiture of the rental
9 agreement, and shall, at the request of the plaintiff or his or her
10 attorney, issue a writ of restitution, directing the constable or
11 sheriff to restore possession of the premises to the plaintiff on a
12 specified date not more than ten days after issuance of the writ of
13 restitution. The plaintiff shall comply with the Disposition of
14 Personal Property Landlord and Tenant Act and subsection (5) of
15 section 76-1414 in the removal of personal property remaining on the
16 premises at the time possession of the premises is restored.

17 Sec. 5. Original sections 69-2303, 76-1414, 76-1441, and
18 76-1446, Reissue Revised Statutes of Nebraska, are repealed.