

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 385**

Introduced by Lindstrom, 18.

Read first time January 16, 2015

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to real property; to amend sections 25-21,220,
- 2 76-1431, and 76-1441, Reissue Revised Statutes of Nebraska; to
- 3 change provisions relating to forcible entry and detainer and the
- 4 Uniform Residential Landlord and Tenant Act; and to repeal the
- 5 original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 25-21,220, Reissue Revised Statutes of Nebraska,  
2 is amended to read:

3 25-21,220 Proceedings under sections 25-21,219 to 25-21,235 may be  
4 had:

5 (1) In all cases against tenants holding over their terms, and a  
6 tenant shall be deemed to be holding over his or her term whenever the  
7 tenant has failed, neglected, or refused to pay the rent or any part  
8 thereof when the rent became due;

9 (2) In all cases when a tenant has threatened the health, safety, or  
10 peaceful enjoyment of other tenants, the landlord, or the landlord's  
11 employees or agents, without the right of the tenant to cure the default;

12 (3 2) In all cases of sales of real estate or executions, orders, or  
13 other judicial process when the judgment debtor was in possession at the  
14 time of the entry of the judgment or decree by virtue of which such sale  
15 was made;

16 (4 3) In all cases of sale by executors or administrators or  
17 guardians and on partition if any of the parties to the partition were in  
18 possession at the commencement of the suit after such sales so made on  
19 execution or otherwise have been examined by the proper court and the  
20 sales adjudged legal; and

21 (5 4) In all cases when the defendant is a settler or occupier of  
22 lands or tenements, without color of title, and to which the complainant  
23 has the right of possession.

24 This section shall not be construed as limiting the provisions of  
25 sections ~~section~~ 25-21,219 to 25-21,235.

26 Sec. 2. Section 76-1431, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28 76-1431 (1) Except as provided in the Uniform Residential Landlord  
29 and Tenant Act, if there is a noncompliance with section 76-1421  
30 materially affecting health and safety or a material noncompliance by the  
31 tenant with the rental agreement or any separate agreement, the landlord

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

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

19 (3) Except as provided in the Uniform Residential Landlord and  
20 Tenant Act, the landlord may recover damages and obtain injunctive relief  
21 for any noncompliance by the tenant with the rental agreement or section  
22 76-1421. If the tenant's noncompliance is willful, the landlord may  
23 recover reasonable attorney's fees.

24 (4) Notwithstanding subsections (1) and (2) of this section or  
25 section 25-21,221, a landlord may, after three days' written notice of  
26 termination of the rental agreement and without the right of the tenant  
27 to cure the default, file suit and have judgment against any tenant, or  
28 occupant for recovery of possession of the premises if the tenant,  
29 occupant, member of the tenant's household, guest, or other person who is  
30 under the tenant's control or who is present upon the premises with the  
31 tenant's consent, engages in any drug-related or violent criminal

1 activity on the premises or engages in any activity that threatens the  
2 health, safety, or peaceful enjoyment of other tenants, the landlord, or  
3 the landlord's employees or agents. Such activity shall include, but not  
4 be limited to, any of the following activities of the tenant, occupant,  
5 member of the tenant's household, guest, or other person who is under the  
6 tenant's control or who is present upon the premises with the tenant's  
7 consent: (a) Physical assault or the threat of physical assault; (b)  
8 illegal use of a firearm or other weapon or the threat of illegal use of  
9 a firearm or other weapon; (c) possession of a controlled substance if  
10 the tenant knew or should have known of the possession, unless such  
11 controlled substance was obtained directly from or pursuant to a medical  
12 order issued by a practitioner legally authorized to prescribe while  
13 acting in the course of his or her professional practice; or (d) any  
14 other activity or threatened activity which would otherwise threaten the  
15 health, safety, or peaceful enjoyment of any person or involving  
16 threatened, imminent, or actual damage to the property.

17 (5) Subsection (4) of this section does not apply to a tenant if the  
18 drug-related or violent criminal activity threatening the health, safety,  
19 or peaceful enjoyment of other tenants, the landlord, or the landlord's  
20 employees or agents, as set forth in subsection (4) of this section, is  
21 conducted by a person on the premises other than the tenant and the  
22 tenant takes at least one of the following measures against the person  
23 engaging in such activity:

24 (a) The tenant seeks a protective order, restraining order, or other  
25 similar relief which would apply to the person conducting the activities  
26 threatening the health, safety, or peaceful enjoyment of other tenants,  
27 the landlord, or the landlord's employees or agents; or

28 (b) The tenant reports the drug-related or violent criminal activity  
29 threatening the health, safety, or peaceful enjoyment of other tenants,  
30 the landlord, or the landlord's employees or agents to a law enforcement  
31 agency in an effort to initiate a criminal action against the person

1 conducting the activity.

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

4       76-1441 (1) The person seeking possession shall file a complaint  
5 for restitution with the clerk of the district or county court. The  
6 complaint shall contain (a) the facts, with particularity, on which he or  
7 she seeks to recover; (b) a reasonably accurate description of the  
8 premises; and (c) the requisite compliance with the notice provisions of  
9 the Uniform Residential Landlord and Tenant Act. The complaint may notify  
10 the tenant that personal property remains on the premises and that it may  
11 be disposed of pursuant to section 69-2308. The complaint may also  
12 contain other causes of action relating to the tenancy, but such causes  
13 of action shall be answered and tried separately, if requested by either  
14 party in writing.

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

18       Sec. 4. Original sections 25-21,220, 76-1431, and 76-1441, Reissue  
19 Revised Statutes of Nebraska, are repealed.