

AMENDMENTS TO LB433

Introduced by Judiciary.

1           1. Strike the original sections and insert the following new  
2 sections:

3           Section 1. Section 76-1416, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5           76-1416 (1) A landlord may not demand or receive security, however  
6 denominated, in an amount or value in excess of one month's periodic  
7 rent, except that a pet deposit not in excess of one-fourth of one  
8 month's periodic rent may be demanded or received when appropriate, but  
9 this subsection shall not be applicable to housing agencies organized or  
10 existing under the Nebraska Housing Agency Act.

11           (2) Upon termination of the tenancy, property or money held by the  
12 landlord as prepaid rent and security may be applied to the payment of  
13 rent and the amount of damages which the landlord has suffered by reason  
14 of the tenant's noncompliance with the rental agreement or section  
15 76-1421. The balance, if any, and a written itemization shall be  
16 delivered or mailed to the tenant within fourteen days after the date of  
17 termination of the tenancy. If no mailing address or instructions are  
18 provided by the tenant to the landlord, the landlord shall send, by  
19 first-class mail, the balance of the security deposit to the tenant's  
20 last-known mailing address ~~demand and designation of the location where~~  
21 ~~payment may be made or mailed.~~

22           (3) If the landlord fails to comply with subsection (2) of this  
23 section, the tenant may recover, in addition to the property and money  
24 due him or her, liquidated damages of one times the periodic rent, plus  
25 costs and reasonable attorney's fees.

26           (4) This section does not preclude the landlord or tenant from  
27 recovering other damages to which he or she may be entitled under the

1 Uniform Residential Landlord and Tenant Act. However, a tenant shall not  
2 be liable for damages directly related to the tenant's removal from the  
3 premises by order of any governmental entity as a result of the premises  
4 not being fit for habitation due to the negligence or neglect of the  
5 landlord.

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

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

10 76-1431 (1) Except as provided in the Uniform Residential Landlord  
11 and Tenant Act, if there is a noncompliance with section 76-1421  
12 materially affecting health and safety or a material noncompliance by the  
13 tenant with the rental agreement or any separate agreement, the landlord  
14 may deliver a written notice to the tenant specifying the acts and  
15 omissions constituting the breach and that the rental agreement will  
16 terminate upon a date not less than thirty days after receipt of the  
17 notice if the breach is not remedied in fourteen days, and the rental  
18 agreement shall terminate as provided in the notice subject to the  
19 following. If the breach is remediable by repairs or the payment of  
20 damages or otherwise and the tenant adequately remedies the breach prior  
21 to the date specified in the notice, the rental agreement will not  
22 terminate. If substantially the same act or omission which constituted a  
23 prior noncompliance of which notice was given recurs within six months,  
24 the landlord may terminate the rental agreement upon at least fourteen  
25 days' written notice specifying the breach and the date of termination of  
26 the rental agreement.

27 (2) If rent is unpaid when due and the tenant fails to pay rent  
28 within seven calendar ~~three~~ days after written notice by the landlord of  
29 nonpayment and his or her intention to terminate the rental agreement if  
30 the rent is not paid within that period of time, the landlord may  
31 terminate the rental agreement.

1           (3) Except as provided in the Uniform Residential Landlord and  
2 Tenant Act, the landlord may recover damages and obtain injunctive relief  
3 for any noncompliance by the tenant with the rental agreement or section  
4 76-1421. If the tenant's noncompliance is willful, the landlord may  
5 recover reasonable attorney's fees.

6           (4) Notwithstanding subsections (1) and (2) of this section or  
7 section 25-21,221, a landlord may, after five days' written notice of  
8 termination of the rental agreement and without the right of the tenant  
9 to cure the default, file suit and have judgment against any tenant or  
10 occupant for recovery of possession of the premises if the tenant,  
11 occupant, member of the tenant's household, guest, or other person who is  
12 under the tenant's control or who is present upon the premises with the  
13 tenant's consent, engages in any violent criminal activity on the  
14 premises, the illegal sale of any controlled substance on the premises,  
15 or any other activity that threatens the health or safety of other  
16 tenants, the landlord, or the landlord's employees or agents. Such  
17 activity shall include, but not be limited to, any of the following  
18 activities of the tenant, occupant, member of the tenant's household,  
19 guest, or other person who is under the tenant's control or who is  
20 present upon the premises with the tenant's consent: (a) Physical assault  
21 or the threat of physical assault; (b) illegal use of a firearm or other  
22 weapon or the threat of illegal use of a firearm or other weapon; (c)  
23 possession of a controlled substance if the tenant knew or should have  
24 known of the possession, unless such controlled substance was obtained  
25 directly from or pursuant to a medical order issued by a practitioner  
26 legally authorized to prescribe while acting in the course of his or her  
27 professional practice; or (d) any other activity or threatened activity  
28 which would otherwise threaten the health or safety of any person or  
29 involving threatened, imminent, or actual damage to the property.

30           (5) Subsection (4) of this section does not apply to a tenant if the  
31 violent criminal activity, illegal sale of any controlled substance, or

1 other activity that threatens the health or safety of other tenants, the  
2 landlord, or the landlord's employees or agents, as set forth in  
3 subsection (4) of this section, is conducted by a person on the premises  
4 other than the tenant and the tenant takes at least one of the following  
5 measures against the person engaging in such activity:

6 (a) The tenant seeks a protective order, restraining order, or other  
7 similar relief which would apply to the person conducting such activity;  
8 or

9 (b) The tenant reports such activity to a law enforcement agency in  
10 an effort to initiate a criminal action against the person conducting the  
11 activity.

12 Sec. 3. Original sections 76-1416 and 76-1431, Reissue Revised  
13 Statutes of Nebraska, are repealed.