

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1108

Introduced by Gragert, 40.

Read first time January 22, 2020

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to property; to amend sections 69-1301,
2 69-1302, 69-1303, 69-1305, 69-1305.01, 69-1307, 69-1307.03, 69-1308,
3 69-1310, 69-1318, and 69-1322, Reissue Revised Statutes of Nebraska,
4 and sections 76-1416 and 79-956, Revised Statutes Supplement, 2019;
5 to change provisions relating to the Uniform Disposition of
6 Unclaimed Property Act and the School Employees Retirement Act; to
7 provide for donated claims; to change a security deposit provision
8 under the Uniform Residential Landlord and Tenant Act; to harmonize
9 provisions; and to repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 69-1301, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 69-1301 As used in the Uniform Disposition of Unclaimed Property Act
4 unless the context otherwise requires:

5 (a) Banking organization means any bank, trust company, savings
6 bank, industrial bank, land bank, or safe deposit company.

7 (b) Business association means any corporation, joint-stock company,
8 business trust, partnership, limited liability company, or association
9 for business purposes of two or more individuals, but does not include a
10 public corporation.

11 (c) Financial organization means any savings and loan association,
12 building and loan association, credit union, cooperative bank, or
13 investment company, doing business in this state.

14 (d) General-use prepaid card means a plastic card or other
15 electronic payment device usable with multiple, unaffiliated sellers of
16 goods or services.

17 (e) Holder means any person in possession of property subject to the
18 act belonging to another, or who is trustee in case of a trust, or is
19 indebted to another on an obligation subject to the act.

20 (f) Life insurance corporation means any association or corporation
21 transacting within this state the business of insurance on the lives of
22 persons or insurance appertaining thereto, including, but not limited to,
23 endowments and annuities.

24 (g) Military medal means any decoration or award that may be
25 presented or awarded to a member of a unit of the United States Armed
26 Forces or National Guard.

27 (h) Owner means a depositor in case of a deposit, a beneficiary in
28 case of a trust, a creditor, claimant, or payee in case of other choses
29 in action, or any person having a legal or equitable interest in property
30 subject to the act, or his or her legal representative.

31 (i) Person means any individual, business association, governmental

1 or political subdivision, public corporation, public authority, estate,
2 trust, two or more persons having a joint or common interest, or any
3 other legal or commercial entity.

4 (j) Record means information that is inscribed on a tangible medium
5 or that is stored in an electronic or other medium and is retrievable in
6 perceivable form. The phrase "records of the holder" includes records
7 maintained by a third party that has contracted with the holder.

8 (k) (j) Utility means any person who owns or operates within this
9 state, for public use, any plant, equipment, property, franchise, or
10 license for the transmission of communications or the production,
11 storage, transmission, sale, delivery, or furnishing of electricity,
12 water, steam, or gas.

13 Sec. 2. Section 69-1302, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 69-1302 The following property held or owing by a banking or
16 financial organization or by a business association is presumed
17 abandoned:

18 (a) Any demand, savings, or matured time deposit that is not
19 automatically renewable made in this state with a banking organization,
20 together with any interest or dividends thereon, excluding any charges
21 that may lawfully be withheld, unless the owner has, within three ~~five~~
22 years:

23 (1) Increased or decreased the amount of the deposit, or presented
24 the passbook or other similar evidence of the deposit for the crediting
25 of interest or dividends; or

26 (2) Corresponded in writing with the banking organization concerning
27 the deposit; ~~or~~

28 (3) Communicated by means of a secure, password-protected,
29 electronic contact, communication, or transaction with the banking
30 organization concerning the deposit; or

31 (4) (3) Otherwise indicated an interest in the deposit as evidenced

1 by a memorandum or other record on file with the banking organization; or
2 ~~(5) (4)~~ Owned other property to which subdivision (a)(1), (2), ~~or~~
3 ~~(3), or (4) of this section~~ applies and if the banking organization
4 corresponds in writing with the owner with regard to the property that
5 would otherwise be presumed abandoned under subdivision (a) of this
6 section at the address to which correspondence regarding the other
7 property regularly is sent; or

8 ~~(6) (5)~~ Had another relationship with the banking organization
9 concerning which the owner has:

10 (i) Corresponded in writing with the banking organization;~~or~~

11 ~~(ii) Communicated by means of a secure, password-protected,~~
12 ~~electronic contact, communication, or transaction with the banking~~
13 ~~organization; or~~

14 ~~(iii) (ii)~~ Otherwise indicated an interest as evidenced by a
15 memorandum or other record on file with the banking organization and if
16 the banking organization corresponds in writing with the owner with
17 regard to the property that would otherwise be abandoned under
18 subdivision (a) of this section at the address to which correspondence
19 regarding the other relationship regularly is sent.

20 (b) Any funds paid in this state toward the purchase of shares or
21 other interest in a financial organization or any deposit that is not
22 automatically renewable, including a certificate of indebtedness that is
23 not automatically renewable, made therewith in this state, and any
24 interest or dividends thereon, excluding any charges that may lawfully be
25 withheld, unless the owner has within ~~three~~ five years:

26 (1) Increased or decreased the amount of the funds or deposit, or
27 presented an appropriate record for the crediting of interest or
28 dividends; or

29 (2) Corresponded in writing with the financial organization
30 concerning the funds or deposit; or

31 (3) Otherwise indicated an interest in the funds or deposit as

1 evidenced by a memorandum or other record on file with the financial
2 organization; or

3 (4) Owned other property to which subdivision (b)(1), (2), or (3)
4 applies and if the financial organization corresponds in writing with the
5 owner with regard to the property that would otherwise be presumed
6 abandoned under subdivision (b) of this section at the address to which
7 correspondence regarding the other property regularly is sent; or

8 (5) Had another relationship with the financial organization
9 concerning which the owner has:

10 (i) Corresponded in writing with the financial organization; or

11 (ii) Otherwise indicated an interest as evidenced by a memorandum or
12 other record on file with the financial organization and if the financial
13 organization corresponds in writing with the owner with regard to the
14 property that would otherwise be abandoned under this subdivision (b) of
15 this section at the address to which correspondence regarding the other
16 relationship regularly is sent.

17 (c) A holder may not, with respect to property described in
18 subdivision (a) or (b) of this section, impose any charges solely due to
19 dormancy or cease payment of interest solely due to dormancy unless there
20 is a written contract between the holder and the owner of the property
21 pursuant to which the holder may impose reasonable charges or cease
22 payment of interest or modify the imposition of such charges and the
23 conditions under which such payment may be ceased. A holder of such
24 property who imposes charges solely due to dormancy may not increase such
25 charges with respect to such property during the period of dormancy. The
26 contract required by this subdivision may be in the form of a signature
27 card, deposit agreement, or similar agreement which contains or
28 incorporates by reference (1) the holder's schedule of charges and the
29 conditions, if any, under which the payment of interest may be ceased or
30 (2) the holder's rules and regulations setting forth the holder's
31 schedule of charges and the conditions, if any, under which the payment

1 of interest may be ceased.

2 (d)(1) Any time deposit that is automatically renewable, including a
3 certificate of indebtedness that is automatically renewable, made in this
4 state with a banking or financial organization, together with any
5 interest thereon, seven years after the expiration of the initial time
6 period or any renewal time period unless the owner has, during such
7 initial time period or renewal time period:

8 (i) Increased or decreased the amount of the deposit, or presented
9 an appropriate record or other similar evidence of the deposit for the
10 crediting of interest;

11 (ii) Corresponded in writing with the banking or financial
12 organization concerning the deposit;

13 (iii) Otherwise indicated an interest in the deposit as evidenced by
14 a memorandum or other record on file with the banking or financial
15 organization;

16 (iv) Owned other property to which subdivision (d)(1)(i), (ii), or
17 (iii) of this section applies and if the banking or financial
18 organization corresponds in writing with the owner with regard to the
19 property that would otherwise be presumed abandoned under subdivision (d)
20 of this section at the address to which correspondence regarding the
21 other property regularly is sent; or

22 (v) Had another relationship with the banking or financial
23 organization concerning which the owner has:

24 (A) Corresponded in writing with the banking or financial
25 organization; or

26 (B) Otherwise indicated an interest as evidenced by a memorandum or
27 other record on file with the banking or financial organization and if
28 the banking or financial organization corresponds in writing with the
29 owner with regard to the property that would otherwise be abandoned under
30 subdivision (d) of this section at the address to which correspondence
31 regarding the other relationship regularly is sent.

1 (2) If, at the time provided for delivery in section 69-1310, a
2 penalty or forfeiture in the payment of interest would result from the
3 delivery of a time deposit subject to subdivision (d) of this section,
4 the time for delivery shall be extended until the time when no penalty or
5 forfeiture would result.

6 (e) Any sum payable on checks certified in this state or on written
7 instruments issued in this state on which a banking or financial
8 organization or business association is directly liable, including, by
9 way of illustration but not of limitation, certificates of deposit that
10 are not automatically renewable, drafts, money orders, and traveler's
11 checks, that, with the exception of money orders and traveler's checks,
12 has been outstanding for more than three ~~five~~ years from the date it was
13 payable, or from the date of its issuance if payable on demand, or, in
14 the case of (i) money orders, that has been outstanding for more than
15 seven years from the date of issuance and (ii) traveler's checks, that
16 has been outstanding for more than fifteen years from the date of
17 issuance, unless the owner has within three ~~five~~ years, or within seven
18 years in the case of money orders and within fifteen years in the case of
19 traveler's checks, corresponded in writing with the banking or financial
20 organization or business association concerning it, or otherwise
21 indicated an interest as evidenced by a memorandum or other record on
22 file with the banking or financial organization or business association.

23 (f) Any funds or other personal property, tangible or intangible,
24 removed from a safe deposit box or any other safekeeping repository or
25 agency or collateral deposit box in this state on which the lease or
26 rental period has expired due to nonpayment of rental charges or other
27 reason, or any surplus amounts arising from the sale thereof pursuant to
28 law, that have been unclaimed by the owner for more than three ~~five~~ years
29 from the date on which the lease or rental period expired. If the State
30 Treasurer or his or her designee determines after investigation that any
31 delivered property has insubstantial commercial value, the State

1 Treasurer or his or her designee may destroy or otherwise dispose of the
2 property at any time. No action or proceeding may be maintained against
3 the state or any officer or against the banking or financial organization
4 for or on account of any action taken by the State Treasurer pursuant to
5 this subsection.

6 (g) For the purposes of this section failure of the United States
7 mails to return a letter, duly deposited therein, first-class postage
8 prepaid, to the last-known address of an owner of tangible or intangible
9 property shall be deemed correspondence in writing and shall be
10 sufficient to overcome the presumption of abandonment created herein. A
11 memorandum or writing on file with such banking or financial organization
12 shall be sufficient to evidence such failure.

13 Sec. 3. Section 69-1303, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 69-1303 (a) Unclaimed funds, as defined in this section, held and
16 owing by a life insurance corporation shall be presumed abandoned if the
17 last-known address, according to the records of the corporation, of the
18 person entitled to the funds is within this state. If a person other than
19 the insured or annuitant is entitled to the funds and no address of such
20 person is known to the corporation or if it is not definite and certain
21 from the records of the corporation what person is entitled to the funds,
22 it is presumed that the last-known address of the person entitled to the
23 funds is the same as the last-known address of the insured or annuitant
24 according to the records of the corporation.

25 (b) Unclaimed funds, as used in this section, means all money held
26 and owing by any life insurance corporation unclaimed and unpaid for more
27 than three ~~five~~ years after the money became due and payable as
28 established from the records of the corporation under any life or
29 endowment insurance policy or annuity contract which has matured or
30 terminated. A life insurance policy not matured by actual proof of the
31 death of the insured is deemed to be matured and the proceeds thereof are

1 deemed to be due and payable if such policy was in force when the insured
2 attained the limiting age under the mortality table on which the reserve
3 is based, unless the person appearing entitled thereto has within the
4 preceding three ~~five~~ years, (1) assigned, readjusted, or paid premiums on
5 the policy, or subjected the policy to loan, or (2) corresponded in
6 writing with the life insurance corporation concerning the policy. Money
7 otherwise payable according to the records of the corporation are deemed
8 due and payable although the policy or contract has not been surrendered
9 as required.

10 Sec. 4. Section 69-1305, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 69-1305 (a) Any stock, shareholding, or other intangible ownership
13 interest in a business association, the existence of which is evidenced
14 by records available to the association, is presumed abandoned and, with
15 respect to the interest, the association is the holder, if:

16 (1) The interest in the association is owned by a person who for
17 more than three ~~five~~ years has not claimed a dividend, distribution, or
18 other sum payable as a result of the interest or has not communicated
19 with the association regarding the interest or a dividend, distribution,
20 or other sum payable as a result of the interest, as evidenced by a
21 memorandum or other record on file with the association prepared by an
22 employee of the association; and

23 (2) The association does not know the location of the owner at the
24 end of the three-year ~~five-year~~ period.

25 (b) The return of official shareholder notifications or
26 communications by the postal service as undeliverable shall be evidence
27 that the association does not know the location of the owner.

28 (c) The Uniform Disposition of Unclaimed Property Act shall be
29 applicable to both the underlying stock, shareholdings, or other
30 intangible ownership interests of an owner, and any stock, shareholdings,
31 or other intangible ownership interest of which the business association

1 is in possession of the certificate or other evidence or indicia of
2 ownership, and to the stock, shareholdings, or other intangible ownership
3 interests of dividend- and non-dividend-paying business associations
4 whether or not the interest is represented by a certificate.

5 Sec. 5. Section 69-1305.01, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 69-1305.01 The Uniform Disposition of Unclaimed Property Act does
8 not apply to any stock or other intangible ownership interest enrolled in
9 a plan that provides for the automatic reinvestment of dividends,
10 distributions, or other sums payable as a result of the interest unless:

11 (a) The records available to the administrator of the plan show,
12 with respect to any intangible ownership interest not enrolled in the
13 reinvestment plan, that the owner has not within three ~~five~~ years
14 communicated in any manner described in subdivision (a)(1) of section
15 69-1305; or

16 (b) Three ~~Five~~ years have elapsed since the location of the owner
17 became unknown to the business association as evidenced by the return of
18 official shareholder notifications or communications by the postal
19 service as undeliverable and the owner has not within those three ~~five~~
20 years communicated in any manner described in subdivision (a)(1) of
21 section 69-1305. The three-year ~~five-year~~ period from the return of
22 official shareholder notifications or communications shall commence from
23 the return of the notification or communication.

24 Sec. 6. Section 69-1307, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 69-1307 All intangible personal property and any income or increment
27 thereon, held in a fiduciary capacity for the benefit of another person
28 is presumed abandoned unless the owner has, within three ~~five~~ years after
29 it becomes payable or distributable, increased or decreased the
30 principal, accepted payment of principal or income, corresponded in
31 writing concerning the property, or otherwise indicated an interest as

1 evidenced by a memorandum on file with the fiduciary:

2 (a) If the property is held by a banking organization or a financial
3 organization, or by a business association organized under the laws of or
4 created in this state; or

5 (b) If it is held by a business association, doing business in this
6 state, but not organized under the laws of or created in this state, and
7 the records of the business association indicate that the last-known
8 address of the person entitled thereto is in this state; or

9 (c) If it is held in this state by any other person.

10 Sec. 7. Section 69-1307.03, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 69-1307.03 All intangible property and any income or increment
13 derived therefrom held in an individual retirement account, a retirement
14 plan for self-employed individuals, or similar account or plan
15 established pursuant to the internal revenue laws of the United States,
16 which has not been paid or distributed for more than thirty days after
17 the earliest of the following: (a) The actual date of distribution or
18 attempted distribution; (b) the date contracted for distribution in the
19 plan or trust agreement governing the account or plan; or (c) the date
20 specified in the internal revenue law of the United States by which
21 distribution must begin in order to avoid a tax penalty, is presumed
22 abandoned unless the owner or beneficiary within the three ~~five~~ years
23 preceding any such date has made additional payments or transfers of
24 property to the account or plan, was paid or received a distribution,
25 communicated concerning the property, or otherwise indicated an interest
26 as evidenced by a memorandum or other record on file with the account or
27 plan fiduciary.

28 Sec. 8. Section 69-1308, Reissue Revised Statutes of Nebraska, is
29 amended to read:

30 69-1308 (a) Except as provided in subsection (b) of this section,
31 all intangible personal property, not otherwise covered by the Uniform

1 Disposition of Unclaimed Property Act, including any income or increment
2 thereon after deducting any lawful charges, that is held or owing in this
3 state in the ordinary course of the holder's business and has remained
4 unclaimed by the owner for more than three ~~five~~ years after it became
5 payable or distributable, is presumed abandoned.

6 (b) The unredeemed value of a general-use prepaid card, including
7 any income or increment thereon after deducting any lawful charges, that
8 is held or owing in this state in the ordinary course of the holder's
9 business and has remained unclaimed by the owner for more than three ~~five~~
10 years after the last transaction initiated by the card owner, is presumed
11 abandoned.

12 Sec. 9. Section 69-1310, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 69-1310 (a) Every person holding funds or other property, tangible
15 or intangible, presumed abandoned under the Uniform Disposition of
16 Unclaimed Property Act shall report to the State Treasurer with respect
17 to the property as hereinafter provided.

18 (b) The report shall be verified and shall include:

19 (1) Except with respect to traveler's checks and money orders, the
20 name, if known, and last-known address, if any, of each person appearing
21 from the records of the holder to be the owner of any property presumed
22 abandoned under the act;

23 (2) In case of unclaimed funds of life insurance corporations, the
24 full name of the insured or annuitant and his or her last-known address
25 according to the life insurance corporation's records;

26 (3) The nature and identifying number, if any, or description of the
27 property and the amount appearing from the records to be due, ~~except that~~
28 ~~items of less than twenty-five dollars may be reported in the aggregate;~~

29 (4) The date when the property became payable, demandable, or
30 returnable, and the date of the last transaction with the owner with
31 respect to the property; and

1 (5) Other information which the State Treasurer may prescribe by
2 rule as necessary for the administration of the act.

3 (c) If the person holding property presumed abandoned is a successor
4 to other persons who previously held the property for the owner, or if
5 the holder has changed his or her name while holding the property, he or
6 she shall file with his or her report all prior known names and addresses
7 of each holder of the property.

8 (d) The report shall be filed before November 1 of each year as of
9 June 30 next preceding, but the report of life insurance corporations
10 shall be filed before May 1 of each year as of December 31 next
11 preceding. A one-time supplemental report shall be filed by life
12 insurance corporations with regard to property subject to section
13 69-1307.05 before November 1, 2003, as of December 31, 2002, as if
14 section 69-1307.05 had been in effect before January 1, 2003. The
15 property must accompany the report unless excused by the State Treasurer
16 for good cause. The State Treasurer may postpone the reporting date upon
17 written request by any person required to file a report. Any person
18 holding intangible property presumed abandoned due to be reported with a
19 cumulative value of fifty dollars or less in a single reporting year
20 shall not be required to report the property in that year but shall
21 report the property in any year when the property value or total report
22 value exceeds fifty dollars.

23 (e) If the holder of property presumed abandoned under the act knows
24 the whereabouts of the owner and if the owner's claim has not been barred
25 by the statute of limitations, the holder shall, before filing the annual
26 report, communicate with the owner and take necessary steps to prevent
27 abandonment from being presumed. The holder shall exercise due diligence
28 to ascertain the whereabouts of the owner.

29 (f) Verification, if made by a partnership, shall be executed by a
30 partner; if made by a limited liability company, by a member; if made by
31 an unincorporated association or private corporation, by an officer; and

1 if made by a public corporation, by its chief fiscal officer.

2 Sec. 10. Section 69-1318, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 69-1318 (1) Any person claiming an interest in any property
5 delivered to the state under sections 24-345, and 69-1301 to 69-1329 may
6 file a claim thereto or to the proceeds from the sale thereof on the form
7 prescribed by the State Treasurer.

8 (2) As directed by the claimant, the State Treasurer or his or her
9 designee shall pay over or deliver any property, proceeds, and other sums
10 payable to the claimant, to a nonprofit organization nominated by the
11 State Treasurer.

12 Sec. 11. Section 69-1322, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 69-1322 (a) The State Treasurer, at reasonable times and on
15 reasonable notice, may: ~~If the State Treasurer has reason to believe that~~
16 ~~any person has failed to report property in accordance with the Uniform~~
17 ~~Disposition of Unclaimed Property Act, the State Treasurer may demand~~
18 ~~that such person file a verified report or otherwise comply with the act~~
19 ~~within thirty days of the demand.~~

20 (1) Examine the records of any person to determine whether the
21 person has complied with the Uniform Disposition of Unclaimed Property
22 Act even if the person believes it is not in possession of any property
23 that must be reported, paid, or delivered under the act;

24 (2) Issue an administrative subpoena requiring the person or agent
25 of the person to make records available for examination; and

26 (3) Bring an action seeking judicial enforcement of the subpoena.

27 ~~(b) The State Treasurer may at reasonable times and upon reasonable~~
28 ~~notice examine the records of any person if he or she has reason to~~
29 ~~believe that such person has failed to report property that should have~~
30 ~~been reported pursuant to the act.~~

31 (b) (e) If an examination of the records of a person results in the

1 disclosure of property reportable under the act, the State Treasurer may
2 assess the cost of the examination against the holder but in no case may
3 the charges exceed the value of the property found to be reportable.

4 (c)(1) ~~(d)(1)~~ Every holder required to file a report under section
5 69-1310, as to any property for which it has obtained the last-known
6 address of the owner, shall maintain a record of the name and last-known
7 address of the owner for seven years after the property becomes
8 reportable, except to the extent that a shorter time is provided in
9 subdivision (2) of this subsection or by rule of the State Treasurer.

10 (2) Any holder that sells in this state its travelers checks, money
11 orders, or other similar written instruments on which the holder is
12 directly liable, or that provides such instruments to others for sale in
13 this state, shall maintain a record of those instruments while they
14 remain outstanding, indicating the state and date of issue for three
15 years after the date the property is reportable.

16 Sec. 12. Section 76-1416, Revised Statutes Supplement, 2019, is
17 amended to read:

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

24 (2) Upon termination of the tenancy, property or money held by the
25 landlord as prepaid rent and security may be applied to the payment of
26 rent and the amount of damages which the landlord has suffered by reason
27 of the tenant's noncompliance with the rental agreement or section
28 76-1421. The balance, if any, and a written itemization shall be
29 delivered or mailed to the tenant within fourteen days after the date of
30 termination of the tenancy. If no mailing address or instructions are
31 provided by the tenant to the landlord, the landlord shall mail, by

1 first-class mail, the balance of the security deposit to be returned, if
2 any, and a written itemization of the amount of the security deposit not
3 returned to the tenant's last-known mailing address. If the mailing is
4 returned as undeliverable, or if the returned balance of the security
5 deposit remains outstanding for one year, it shall be considered
6 abandoned property to be reported and paid to the State Treasurer in
7 accordance with ~~thirty days after the date of the mailing, the landlord~~
8 ~~shall, not later than sixty days after the date of the mailing, remit the~~
9 ~~outstanding balance of the security deposit to the State Treasurer for~~
10 ~~disposition pursuant to the Uniform Disposition of Unclaimed Property~~
11 Act.

12 (3) If the landlord fails to comply with subsection (2) of this
13 section, the tenant may recover the property and money due him or her,
14 court costs, and reasonable attorney's fees. In addition, if the
15 landlord's failure to comply with subsection (2) of this section is
16 willful and not in good faith, the tenant may recover an amount equal to
17 one month's periodic rent or two times the amount of the security
18 deposit, whichever is less, as liquidated damages.

19 (4) This section does not preclude the landlord or tenant from
20 recovering other damages to which he or she may be entitled under the
21 Uniform Residential Landlord and Tenant Act. However, a tenant shall not
22 be liable for damages directly related to the tenant's removal from the
23 premises by order of any governmental entity as a result of the premises
24 not being fit for habitation due to the negligence or neglect of the
25 landlord.

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

28 Sec. 13. Section 79-956, Revised Statutes Supplement, 2019, is
29 amended to read:

30 79-956 (1)(a) Except as provided in section 42-1107, if a member
31 dies before the member's retirement date, the member's accumulated

1 contributions shall be paid pursuant to section 79-969.

2 (b) Except for payment to an alternative payee pursuant to a
3 qualified domestic relations order, if no legal representative or
4 beneficiary applies for such accumulated contributions within three ~~five~~
5 years following the date of the deceased member's death, the
6 contributions shall be distributed in accordance with the Uniform
7 Disposition of Unclaimed Property Act.

8 (2) When the deceased member has twenty years or more of creditable
9 service regardless of age or dies on or after his or her sixty-fifth
10 birthday and leaves a surviving spouse who has been designated by the
11 member as the sole surviving primary beneficiary, on forms provided by
12 the board, as of the date of the member's death, such beneficiary may
13 elect, within twelve months after the death of the member, to receive (a)
14 a refund of the member's contribution account balance, including
15 interest, plus an additional one hundred one percent of the member's
16 contribution account balance, including interest, or (b) an annuity which
17 shall be equal to the amount that would have accrued to the member had he
18 or she elected to have the retirement annuity paid as a one-hundred-
19 percent joint and survivor annuity payable as long as either the member
20 or the member's spouse should survive and had the member retired (i) on
21 the date of death if his or her age at death is sixty-five years or more
22 or (ii) at age sixty-five years if his or her age at death is less than
23 sixty-five years.

24 (3) When the deceased member who was a school employee on or after
25 May 1, 2001, has not less than five years of creditable service and less
26 than twenty years of creditable service and dies before his or her sixty-
27 fifth birthday and leaves a surviving spouse who has been designated in
28 writing as beneficiary and who, as of the date of the member's death, is
29 the sole surviving primary beneficiary, such beneficiary may elect,
30 within twelve months after the death of the member, to receive (a) a
31 refund of the member's contribution account balance with interest plus an

1 additional one hundred one percent of the member's contribution account
2 balance with interest or (b) an annuity payable monthly for the surviving
3 spouse's lifetime which shall be equal to the benefit amount that had
4 accrued to the member at the date of the member's death, commencing when
5 the member would have reached age sixty, or the member's age at death if
6 greater, reduced by three percent for each year payments commence before
7 the member would have reached age sixty-five, and adjusted for payment in
8 the form of a one-hundred-percent joint and survivor annuity.

9 (4)(a) If the requirements of subsection (2) or (3) of this section
10 are not met, a lump sum equal to all contributions to the fund made by
11 such member plus regular interest shall be paid pursuant to section
12 79-969.

13 (b) An application for benefits under subsection (2) or (3) of this
14 section shall be deemed to have been timely filed if the application is
15 received by the retirement system within twelve months after the date of
16 the death of the member.

17 (5) Benefits to which a surviving spouse, beneficiary, or estate of
18 a member shall be entitled pursuant to this section shall commence
19 immediately upon the death of such member.

20 (6) A lump-sum death benefit paid to the member's beneficiary, other
21 than the member's estate, that is an eligible distribution may be
22 distributed in the form of a direct transfer to a retirement plan
23 eligible to receive such transfer under the provisions of the Internal
24 Revenue Code.

25 (7) For any member whose death occurs on or after January 1, 2007,
26 while performing qualified military service as defined in section 414(u)
27 of the Internal Revenue Code, the member's beneficiary shall be entitled
28 to any additional death benefit that would have been provided, other than
29 the accrual of any benefit relating to the period of qualified military
30 service. The additional death benefit shall be determined as if the
31 member had returned to employment with the employer and such employment

1 had terminated on the date of the member's death.

2 Sec. 14. Original sections 69-1301, 69-1302, 69-1303, 69-1305,
3 69-1305.01, 69-1307, 69-1307.03, 69-1308, 69-1310, 69-1318, and 69-1322,
4 Reissue Revised Statutes of Nebraska, and sections 76-1416 and 79-956,
5 Revised Statutes Supplement, 2019, are repealed.