

AMENDMENTS TO LB320

Introduced by Judiciary.

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

3           Section 1. Section 25-21,219, Reissue Revised Statutes of Nebraska,  
4 is amended to read:

5           25-21,219 The district and county courts shall have jurisdiction  
6 over complaints of unlawful and forcible entry into lands and tenements  
7 and the detention of the same and of complaints against those who, having  
8 a lawful and peaceable entry into lands or tenements, unlawfully and by  
9 force hold the same. If the court finds that an unlawful and forcible  
10 entry has been made and that the same lands or tenements are held by  
11 force or that the same, after a lawful entry, are held unlawfully, the  
12 court shall cause the party complaining to have restitution thereof. The  
13 court or the jury, as the situation warrants, shall inquire into the  
14 matters between the two litigants such as the amount of rent owing the  
15 plaintiff and the amount of damage caused by the defendant to the  
16 premises while they were occupied by him or her and render a judgment or  
17 verdict accordingly. This section shall not apply to actions for  
18 possession of any premises subject to the provisions of the Uniform  
19 Residential Landlord and Tenant Act or the Mobile Home Landlord and  
20 Tenant Act.

21           Sec. 2. Section 76-1401, Reissue Revised Statutes of Nebraska, is  
22 amended to read:

23           76-1401 Sections 76-1401 to 76-1449 and section 6 of this act shall  
24 be known and may be cited as the Uniform Residential Landlord and Tenant  
25 Act.

26           Sec. 3. Section 76-1410, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

1           76-1410 Subject to additional definitions contained in the Uniform  
2 Residential Landlord and Tenant Act and unless the context otherwise  
3 requires:

4           (1) Act of domestic violence means abuse as defined in section  
5 42-903, sexual assault under sections 28-319 to 28-320.01, domestic  
6 assault under section 28-323, stalking under section 28-311.03, labor or  
7 sex trafficking under section 28-831, and knowing and intentional abuse,  
8 neglect, or exploitation of a vulnerable adult or senior adult under  
9 section 28-386.

10          ~~(2)~~ (1) Action includes recoupment, counterclaim, setoff, suit in  
11 equity, and any other proceeding in which rights are determined,  
12 including an action for possession.

13          ~~(3)~~ (2) Building and housing codes include any law, ordinance, or  
14 governmental regulation concerning fitness for habitation, or the  
15 construction, maintenance, operation, occupancy, use, or appearance of  
16 any premises, or dwelling unit. Minimum housing code shall be limited to  
17 those laws, resolutions, or ordinances or regulations, or portions  
18 thereof, dealing specifically with health and minimum standards of  
19 fitness for habitation.

20          ~~(4)~~ (3) Dwelling unit means a structure or the part of a structure  
21 that is used as a home, residence, or sleeping place by one person who  
22 maintains a household or by two or more persons who maintain a common  
23 household.

24          ~~(5)~~ (4) Good faith means honesty in fact in the conduct of the  
25 transaction concerned.

26          (6) Household member means a child or adult, other than the  
27 perpetrator of an act of domestic violence, who resides with a tenant.

28          ~~(7)~~ (5) Landlord means the owner, lessor, or sublessor of the  
29 dwelling unit or the building of which it is a part, and it also means a  
30 manager of the premises who fails to disclose as required by section  
31 76-1417.

1           (8) ~~(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           (9) ~~(7)~~ Owner means one or more persons, jointly or severally, in  
7 whom is vested (a) all or part of the legal title to property, or (b) all  
8 or part of the beneficial ownership and a right to present use and  
9 enjoyment of the premises; and the term includes a mortgagee in  
10 possession.

11          (10) ~~(8)~~ Person includes an individual, limited liability company,  
12 or organization.

13          (11) Qualified third party means a nonprofit organization that  
14 provides services for victims of domestic violence.

15          (12) ~~(9)~~ Premises means a dwelling unit and the structure of which  
16 it is a part and facilities and appurtenances therein and grounds, areas,  
17 and facilities held out for the use of tenants generally or whose use is  
18 promised to the tenant.

19          (13) ~~(10)~~ Rent means all payments to be made to the landlord under  
20 the rental agreement.

21          (14) ~~(11)~~ Rental agreement means all agreements, written or oral,  
22 between a landlord and tenant, and valid rules and regulations adopted  
23 under section 76-1422 embodying the terms and conditions concerning the  
24 use and occupancy of a dwelling unit and premises.

25          (15) ~~(12)~~ Roomer means a person occupying a dwelling unit that lacks  
26 a major bathroom or kitchen facility, in a structure where one or more  
27 major facilities are used in common by occupants of the dwelling units.  
28 Major facility in the case of a bathroom means toilet, or either a bath  
29 or shower, and in the case of a kitchen means refrigerator, stove, or  
30 sink.

31          (16) ~~(13)~~ Single-family residence means a structure maintained and

1 used as a single dwelling unit. Notwithstanding that a dwelling unit  
2 shares one or more walls with another dwelling unit, it is a single-  
3 family residence if it has direct access to a street or thoroughfare and  
4 shares neither heating facilities, hot water equipment, nor any other  
5 essential facility or service with any other dwelling unit.

6 (17) ~~(14)~~ Tenant means a person entitled under a rental agreement to  
7 occupy a dwelling unit to the exclusion of others.

8 Sec. 4. Section 76-1423, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 76-1423 (1) The tenant shall not unreasonably withhold consent to  
11 the landlord to enter into the dwelling unit in order to inspect the  
12 premises, make necessary or agreed repairs, decorations, alterations, or  
13 improvements, supply necessary or agreed services, or exhibit the  
14 dwelling unit to prospective or actual purchasers, mortgagees, tenants,  
15 workmen, or contractors.

16 (2) The landlord may enter the dwelling unit without consent of the  
17 tenant in case of emergency.

18 (3) The landlord shall not abuse the right of access or use it to  
19 harass the tenant. Except in case of emergency or if it is impracticable  
20 to do so, the landlord shall:

21 (a) Give give the tenant at least twenty-four hours' written one  
22 day's notice of the landlord's his intent to enter. Such notice shall be  
23 provided to each individual unit and include the intended purpose for  
24 entry and a reasonable period during which the landlord anticipates  
25 making entry; and

26 (b) Enter enter only at reasonable times.

27 (4) The landlord has no other right of access except by court order,  
28 ~~and~~ as permitted by subsection (2) of section 76-1432, or if the tenant  
29 has abandoned or surrendered the premises.

30 Sec. 5. Section 76-1431, Revised Statutes Cumulative Supplement,  
31 2020, is amended to read:

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

18           (2) If rent is unpaid when due and the tenant fails to pay rent  
19 within seven calendar days after written notice by the landlord of  
20 nonpayment and his or her intention to terminate the rental agreement if  
21 the rent is not paid within that period of time, the landlord may  
22 terminate the rental agreement.

23           (3) Except as provided in the Uniform Residential Landlord and  
24 Tenant Act, the landlord may recover damages and obtain injunctive relief  
25 for any noncompliance by the tenant with the rental agreement or section  
26 76-1421. If the tenant's noncompliance is willful, the landlord may  
27 recover reasonable attorney's fees.

28           (4) Notwithstanding subsections (1) and (2) of this section or  
29 section 25-21,221, and except as provided in subsection (5) of this  
30 section, a landlord may, after five days' written notice of termination  
31 of the rental agreement and without the right of the tenant to cure the

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

22 (5)(a) A landlord shall not take action under subsection (5)  
23 Subsection (4) of this section does not apply to a tenant if the violent  
24 criminal activity, illegal sale of any controlled substance, or other  
25 activity that threatens the health or safety of other tenants, the  
26 landlord, or the landlord's employees or agents, as set forth in  
27 subsection (4) of this section, is conducted by a person on the premises  
28 other than the tenant or a household member and the tenant or household  
29 member takes at least one of the following measures against the person  
30 engaging in such activity:

31 (i) (a) The tenant or household member seeks a protective order,

1 restraining order, or other similar relief which would apply to the  
2 person conducting such activity; ~~or~~

3 (ii) (b) The tenant or household member reports such activity to a  
4 law enforcement agency in an effort to initiate a criminal action against  
5 the person conducting the activity; or -

6 (iii) If the activity is an act of domestic violence, the tenant or  
7 household member receives certification of the activity from a qualified  
8 third party as set forth in the housing protection provisions of the  
9 federal Violence Against Women Reauthorization Act of 2013.

10 (b) This subsection shall not apply to a tenant who is a perpetrator  
11 of an act of domestic violence. If both the victim who takes measures  
12 under this subsection and perpetrator of an act of domestic violence are  
13 parties to a rental agreement, a landlord shall only take action under  
14 subsection (4) of this section against the perpetrator.

15 Sec. 6. (1) A tenant who is a victim of an act of domestic violence  
16 or whose household member is a victim of an act of domestic violence may  
17 obtain a release from a rental agreement if the tenant or household  
18 member has:

19 (a) Obtained a protective order, restraining order, or other similar  
20 relief which applies to the perpetrator of the act of domestic violence;  
21 or

22 (b) Obtained certification confirming domestic violence as set forth  
23 in subdivision (5)(a)(iii) of section 76-1431.

24 (2) To obtain a release from a rental agreement under this section,  
25 the tenant shall:

26 (a) Provide to the landlord a copy of the documentation described in  
27 subsection (1) of this section; and

28 (b) Provide to the landlord a written notice containing:

29 (i) The date on which the tenant wishes the release to be effective.  
30 Such date shall be at least fourteen days after the date the tenant  
31 provides the documentation and written notice and no more than thirty

1 days after such date; and

2 (ii) The names of any household members to be released in addition  
3 to the tenant.

4 (3) The tenant shall remain liable for rent for the month in which  
5 the tenant terminated the rental agreement.

6 (4) A tenant and any household member who is released from a rental  
7 agreement pursuant to this section:

8 (a) Are not liable for rent or damages to the premises incurred  
9 after the release date; and

10 (b) Are not subject to any fee solely because of termination of the  
11 rental agreement.

12 (5) Other tenants who are parties to the rental agreement, other  
13 than household members of a tenant released under this section, are not  
14 released pursuant to this section from their obligations under the rental  
15 agreement or the Uniform Residential Landlord and Tenant Act.

16 (6) A tenant who is a perpetrator of an act of domestic violence may  
17 not obtain a release from a rental agreement under this section.

18 Sec. 7. Section 76-1441, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 76-1441 (1) The person seeking possession shall file a complaint for  
21 restitution with the clerk of the district or county court. The complaint  
22 shall contain (a) the specific statutory authority under which possession  
23 is sought; (b) the facts, with particularity, on which he or she seeks to  
24 recover; (c) ~~(b)~~ a reasonably accurate description of the premises; and  
25 (d) ~~(e)~~ the requisite compliance with the notice provisions of the  
26 Uniform Residential Landlord and Tenant Act. The complaint may notify the  
27 tenant that personal property remains on the premises and that it may be  
28 disposed of pursuant to section 69-2308 or subsection (5) of section  
29 76-1414. The complaint may also contain other causes of action relating  
30 to the tenancy, but such causes of action shall be answered and tried  
31 separately, if requested by either party in writing.

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

4           Sec. 8. Section 76-1442.01, Reissue Revised Statutes of Nebraska, is  
5 amended to read:

6           76-1442.01 When authorized by section 76-1442, service of a summons  
7 issued under such section may be made by posting a copy on the front door  
8 of the dwelling unit, leaving a copy of the summons at the defendant's  
9 last-known address and mailing a copy by first-class mail to the  
10 defendant's last-known such address. The plaintiff shall file an  
11 affidavit with the court describing the diligent efforts ~~showing that an~~  
12 ~~attempt was~~ made to serve the summons in the manner provided in sections  
13 25-505.01 to 25-516.01, the reasons why such service was unsuccessful,  
14 and that service was made by posting the summons on the front door of the  
15 dwelling unit at the last-known address of the defendant and mailing a  
16 copy by first-class mail to the defendant's last-known address ~~defendant~~.

17           Sec. 9. Section 76-1443, Reissue Revised Statutes of Nebraska, is  
18 amended to read:

19           76-1443 The court may grant a continuance for good cause shown by  
20 either party, but no subsequent ~~no~~ continuance shall be granted unless  
21 extraordinary cause be shown to the court, ~~, and then not unless the~~  
22 ~~defendant applying therefor shall deposit with the clerk of the court~~  
23 ~~payment of any rents that have accrued, or give an undertaking with~~  
24 ~~sufficient surety therefor, and, in addition, deposit with the clerk such~~  
25 ~~rental payments as accrue during the pendency of the suit.~~

26           Sec. 10. Section 76-1485, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28           76-1485 (1) A landlord shall, within fourteen ~~thirty~~ days from the  
29 date of termination of the tenancy ~~or receipt in writing of the tenant's~~  
30 ~~mailing address or delivery instructions, whichever is later,~~ return the  
31 rental deposit to the tenant or furnish to the tenant a written statement

1 showing the specific reason for withholding all or any portion of the  
2 rental deposit. If no mailing address or delivery instructions are  
3 provided by the tenant to the landlord, the landlord shall mail, by  
4 first-class mail, the balance of the rental deposit to be returned, if  
5 any, and the written statement regarding any amounts withheld to the  
6 tenant's last-known mailing address. If the mailing is returned as  
7 undeliverable, or if the returned balance of the rental deposit remains  
8 outstanding for one year, it shall be considered abandoned property to be  
9 reported to the State Treasurer in accordance with the Uniform  
10 Disposition of Unclaimed Property Act. The landlord may withhold from the  
11 rental deposit only such amounts as are reasonable:

12 (a) To remedy a tenant's default in the payment of rent or of other  
13 funds due to the landlord pursuant to the rental agreement; and

14 (b) To restore the mobile home space to its condition at the  
15 commencement of the tenancy, ordinary wear and tear excepted.

16 (2) In an action concerning the rental deposit, the burden of  
17 proving, by a preponderance of the evidence, the reason for withholding  
18 all or any portion of the rental deposit shall be on the landlord.

19 Sec. 11. Section 76-1486, Reissue Revised Statutes of Nebraska, is  
20 amended to read:

21 76-1486 A landlord who fails to provide a written statement as  
22 required by section 76-1485 shall forfeit all rights to withhold any  
23 portion of the rental deposit. ~~If no mailing address or instructions are~~  
24 ~~provided to the landlord within one year from the termination of the~~  
25 ~~tenancy, the rental deposit shall revert to the landlord and the tenant~~  
26 ~~shall be deemed to have forfeited all rights to the rental deposit.~~

27 Sec. 12. Section 76-1489, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 76-1489 If a landlord retains all or any portion of a rental  
30 deposit in violation of sections 76-1483 to 76-1488, the tenant may  
31 recover the amount of the rental deposit due to the tenant, court costs,

1 and reasonable attorney's fees. In addition, if the landlord's retention  
2 of the rental deposit or any portion thereof is willful and not in good  
3 faith, the tenant may recover an amount equal to one month's periodic  
4 rent or two times the amount of the rental deposit, whichever is less, as  
5 liquidated damages. The bad faith retention of all or any portion of a  
6 rental deposit by a landlord in violation of sections 76-1483 to 76-1488  
7 shall subject the landlord to liquidated damages in an amount not to  
8 exceed one and one-half months' rent and reasonable attorney's fees.

9       Sec. 13. Section 76-14,101, Reissue Revised Statutes of Nebraska, is  
10 amended to read:

11       76-14,101 (1) If there is a noncompliance with section 76-1493  
12 materially affecting health and safety or a material noncompliance by the  
13 tenant with the rental agreement, the landlord may deliver a written  
14 notice to the tenant specifying the acts and omissions constituting the  
15 breach and that the rental agreement will terminate upon a date not less  
16 than thirty days after receipt of the notice. Only in the event the  
17 breach is remediable by repairs or the payment of damages and the tenant  
18 adequately remedies the breach or takes reasonable steps to remedy it  
19 prior to the date specified in the notice, the rental agreement shall not  
20 terminate.

21       (2) If rent is unpaid when due and the tenant fails to pay rent  
22 within seven five days after written notice by the landlord of nonpayment  
23 and of the landlord's intention to terminate the rental agreement if the  
24 rent is not paid within that period of time, the landlord may terminate  
25 the rental agreement.

26       (3) A landlord may recover damages, obtain injunctive relief, or  
27 recover possession of the mobile home space by an action in forcible  
28 detainer for any material noncompliance by the tenant with the rental  
29 agreement or section 76-1493 by bringing an action for possession in the  
30 manner described in sections 76-1440 to 76-1447.

31       (4) The remedy provided in subsection (3) of this section shall be

1 in addition to any right of a landlord arising under subsection (1) of  
2 this section.

3 Sec. 14. (1) On or before January 15, 2022, and July 15, 2022, and  
4 on or before each January 15 and July 15 thereafter, the Supreme Court  
5 shall electronically submit a report to the Clerk of the Legislature that  
6 includes, for the preceding six months the following information  
7 pertaining to eviction proceedings, broken down by county:

8 (a) The number of eviction proceedings initiated;

9 (b) The number of tenants represented by counsel;

10 (c) The number of landlords represented by counsel;

11 (d) The number of orders granting restitution of the premises  
12 entered by default; and

13 (e) The numbers of orders granting restitution of the premises  
14 entered, broken down by the specific statutory authority under which  
15 possession was sought.

16 (2) For purposes of this section:

17 (a) Eviction proceeding means an action involving a claim for  
18 forcible entry and detainer involving a residential tenancy under  
19 sections 25-21,219 to 25-21,235, the Uniform Residential Landlord and  
20 Tenant Act, or the Mobile Home Landlord and Tenant Act;

21 (b) Landlord includes a landlord as defined in section 76-1410 and a  
22 landlord as defined in section 76-1462;

23 (c) Residential tenancy means a tenancy subject to the Uniform  
24 Residential Landlord and Tenant Act or the Mobile Home Landlord and  
25 Tenant Act or any other tenancy involving a dwelling unit as defined in  
26 section 76-1410;

27 (d) Tenant means a tenant or former tenant of a residential tenancy;  
28 and

29 (e) When reference in this section is made to a definition found in  
30 both the Uniform Residential Landlord and Tenant Act and the Mobile Home  
31 Landlord and Tenant Act, the definition relevant to the type of tenant at

1 issue applies for purposes of this section.

2       Sec. 15. Original sections 25-21,219, 76-1401, 76-1410, 76-1423,  
3 76-1441, 76-1442.01, 76-1443, 76-1485, 76-1486, 76-1489, and 76-14,101,  
4 Reissue Revised Statutes of Nebraska, and section 76-1431, Revised  
5 Statutes Cumulative Supplement, 2020, are repealed.