

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 277

Introduced by Hunt, 8; Cavanaugh, J., 9; Hansen, M., 26.

Read first time January 12, 2021

Committee: Judiciary

1 A BILL FOR AN ACT relating to the Mobile Home Landlord and Tenant Act; to
2 amend sections 76-1485, 76-1486, 76-1489, and 76-14,101, Reissue
3 Revised Statutes of Nebraska; to change provisions relating to the
4 return of rental deposits, damages, and the period of time for
5 paying certain overdue rent; to harmonize provisions; and to repeal
6 the original sections.

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

1 Section 1. Section 76-1485, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 76-1485 (1) A landlord shall, within fourteen ~~thirty~~ days from the
4 date of termination of the tenancy ~~or receipt in writing of the tenant's~~
5 ~~mailing address or delivery instructions, whichever is later,~~ return the
6 rental deposit to the tenant or furnish to the tenant a written statement
7 showing the specific reason for withholding all or any portion of the
8 rental deposit. If no mailing address or delivery instructions are
9 provided by the tenant to the landlord, the landlord shall mail, by
10 first-class mail, the balance of the rental deposit to be returned, if
11 any, and the written statement regarding any amounts withheld to the
12 tenant's last-known mailing address. If the mailing is returned as
13 undeliverable, or if the returned balance of the rental deposit remains
14 outstanding thirty days after the date of the mailing, the landlord
15 shall, not later than sixty days after the date of the mailing, remit the
16 outstanding balance of the rental deposit to the State Treasurer for
17 disposition pursuant to the Uniform Disposition of Unclaimed Property
18 Act. The landlord may withhold from the rental deposit only such amounts
19 as are reasonable:

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

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

24 (2) A tenant shall not be liable for damages directly related to the
25 tenant's removal from the premises by order of any governmental entity as
26 a result of the premises not being fit for habitation due to the
27 negligence or neglect of the landlord.

28 (3) {2} In an action concerning the rental deposit, the burden of
29 proving, by a preponderance of the evidence, the reason for withholding
30 all or any portion of the rental deposit shall be on the landlord.

31 Sec. 2. Section 76-1486, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 76-1486 A landlord who fails to provide a written statement as
3 required by section 76-1485 shall forfeit all rights to withhold any
4 portion of the rental deposit. ~~If no mailing address or instructions are
5 provided to the landlord within one year from the termination of the
6 tenancy, the rental deposit shall revert to the landlord and the tenant
7 shall be deemed to have forfeited all rights to the rental deposit.~~

8 Sec. 3. Section 76-1489, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 76-1489 If a landlord retains all or any portion of a rental
11 deposit in violation of sections 76-1483 to 76-1488, the tenant may
12 recover the amount of the rental deposit due him or her, court costs, and
13 reasonable attorney's fees. In addition, if the landlord's retention of
14 the rental deposit or any portion thereof is willful and not in good
15 faith, the tenant may recover an amount equal to one month's periodic
16 rent or two times the amount of the rental deposit, whichever is less, as
17 liquidated damages. The bad faith retention of all or any portion of a
18 rental deposit by a landlord in violation of sections 76-1483 to 76-1488
19 shall subject the landlord to liquidated damages in an amount not to
20 exceed one and one-half months' rent and reasonable attorney's fees.

21 Sec. 4. Section 76-14,101, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 76-14,101 (1) If there is a noncompliance with section 76-1493
24 materially affecting health and safety or a material noncompliance by the
25 tenant with the rental agreement, the landlord may deliver a written
26 notice to the tenant specifying the acts and omissions constituting the
27 breach and that the rental agreement will terminate upon a date not less
28 than thirty days after receipt of the notice. Only in the event the
29 breach is remediable by repairs or the payment of damages and the tenant
30 adequately remedies the breach or takes reasonable steps to remedy it
31 prior to the date specified in the notice, the rental agreement shall not

1 terminate.

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

7 (3) A landlord may recover damages, obtain injunctive relief, or
8 recover possession of the mobile home space by an action in forcible
9 detainer for any material noncompliance by the tenant with the rental
10 agreement or section 76-1493.

11 (4) The remedy provided in subsection (3) of this section shall be
12 in addition to any right of a landlord arising under subsection (1) of
13 this section.

14 Sec. 5. Original sections 76-1485, 76-1486, 76-1489, and 76-14,101,
15 Reissue Revised Statutes of Nebraska, are repealed.