

LEGISLATIVE BILL 175

Approved by the Governor April 12, 1995

Introduced by Wesely, 26

AN ACT relating to landlords and tenants; to amend sections 76-1441 and 76-1446, Reissue Revised Statutes of Nebraska, and section 69-2303, Revised Statutes Supplement, 1994; to change provisions relating to writs of restitution and notice requirements for personal property disposal; and to repeal the original sections.

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

Section 1. Section 69-2303, Revised Statutes Supplement, 1994, is amended to read:

69-2303. (1) When personal property remains on the premises after a tenancy has terminated or expired and the premises have been vacated by the tenant, ~~through eviction or otherwise~~, the landlord shall give written notice as provided in subsection (2) of this section to such tenant and to any other person the landlord reasonably believes to be the owner of the property.

(2)(a) The notice required by subsection (1) of this section shall describe the property in a manner reasonably adequate to permit the owner of the property to identify it. The notice may describe all or a portion of the property, but the limitation of liability provided by section 69-2309 shall not protect the landlord from any liability arising from the disposition of property not described in the notice, except that a trunk, valise, box, or other container which is locked, fastened, or tied in a manner which deters immediate access to its contents may be described as such without describing its contents.

(b) The notice shall state that reasonable costs of storage may be charged before the property is returned, the location where the property may be claimed, and the date on or before which such property must be claimed.

(c) The date specified in the notice shall be a date not less than seven days after the notice is personally delivered or, if mailed, not less than fourteen days after the notice is deposited in the mail.

(d) The notice shall be given within six months of the date of expiration of the lease of the property or the date of discovery of the abandonment, whichever is later.

(3) The notice shall be personally delivered or sent by first-class mail, postage prepaid, to the person to be notified at his or her last-known address and, if there is reason to believe that the notice sent to that address will not be received by him or her, also delivered or sent to such other address, if any, known to the landlord at which such person may reasonably be expected to receive the notice.

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

76-1441. The person seeking possession shall file a petition for restitution with the clerk of the district or county court. The petition shall contain (a) the facts, with particularity, on which he or she seeks to recover; (b) a reasonably accurate description of the premises; and (c) the requisite compliance with the notice provisions of ~~sections 25-21, 219 and 76-1401 to 76-1449~~ the Uniform Residential Landlord and Tenant Act. ~~The petition may notify the tenant that personal property remains on the premises and that it may be disposed of pursuant to section 69-2308.~~ The petition may also contain other causes of action relating to the tenancy, but such causes of action shall be answered and tried separately, if requested by either party in writing.

Sec. 3. Section 76-1446, Reissue Revised Statutes of Nebraska, is amended to read:

76-1446. Trial shall be had on the date or dates set as in all other cases, and if judgment ~~be is~~ rendered against defendant for the restitution of the premises, the court shall declare the forfeiture of the rental agreement, and shall, at the request of the plaintiff or his or her attorney, issue a writ of restitution, directing the constable or sheriff to restore possession of the premises to the plaintiff on a specified date not more than ten days after issuance of the writ of restitution. The plaintiff shall comply with the Disposition of Personal Property Landlord and Tenant Act in the removal of personal property remaining on the premises at the time possession of the premises is restored.

Sec. 4. Original sections 76-1441 and 76-1446, Reissue Revised Statutes of Nebraska, and section 69-2303, Revised Statutes Supplement, 1994,