

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 455**

Introduced by Lautenbaugh, 18.

Read first time January 22, 2013

Committee: Judiciary

A BILL

1 FOR AN ACT relating to the Uniform Residential Landlord and Tenant  
2 Act; to amend sections 76-1431 and 76-1441, Reissue  
3 Revised Statutes of Nebraska; to provide procedures for  
4 termination based upon clear and present danger; and to  
5 repeal the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 76-1431, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

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

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

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

6           (3)(a) Notwithstanding subsections (1) and (2) of this  
7 section or section 25-21,221, if a tenant has created or maintained a  
8 threat constituting a clear and present danger to the health or  
9 safety of other tenants, the landlord, the landlord's employee or  
10 agent, or other persons on the landlord's property, the landlord may  
11 terminate the rental agreement upon three days' written notice of  
12 termination of the rental agreement and notice to quit, without right  
13 of tenant to cure the default. Such notice of termination of the  
14 rental agreement and notice to quit shall state the specific activity  
15 causing the clear and present danger, and set forth the language of  
16 subsection (4) of this section which includes certain exemption  
17 provisions available to the tenant.

18           (b) A clear and present danger to the health or safety of  
19 other tenants, the landlord, the landlord's employees or agents, or  
20 other persons on the landlord's property includes, but is not limited  
21 to, any of the following activities of the tenant or of any person on  
22 the premises with the consent of the tenant:

23           (i) Physical assault or the threat of physical assault or  
24 other criminal activity which causes physical harm or fear of  
25 physical harm;

1           (ii) Illegal use of a firearm or other weapon, the threat  
2 to use a firearm or other weapon illegally, or possession of an  
3 illegal firearm;

4           (iii) The unlawful manufacturing, selling, using,  
5 storing, keeping, possessing, or giving of a controlled substance as  
6 defined by local, state, or federal law, unless the controlled  
7 substance was obtained directly from or pursuant to a valid  
8 prescription or order by a licensed medical practitioner while acting  
9 in the course of the practitioner's professional practice. This  
10 subdivision applies to any other person on the premises with the  
11 consent of the tenant, but only if the tenant knew of the possession  
12 by the other person of a controlled substance;

13           (iv) Prostitution, sexual assault, threat of sexual  
14 assault, or any other crime against a person or property; or

15           (v) Any other activity or threatened activity which would  
16 otherwise jeopardize the health, safety, welfare, or peace of any  
17 person or involving threatened, imminent, or actual damage to  
18 property.

19           (4) Subsection (3) of this section does not apply to a  
20 tenant if the activities causing the clear and present danger are  
21 conducted by a person on the premises other than the tenant and the  
22 tenant takes at least one of the following measures against the  
23 person conducting the activities:

24           (A) The tenant seeks a protective order, restraining  
25 order, or other similar relief pursuant to Chapter 28 or 43 or any

1 other applicable provision which would apply to the person conducting  
2 the activities causing the clear and present danger; or

3 (B) The tenant reports the activities causing the clear  
4 and present danger to a law enforcement agency or the county attorney  
5 in an effort to initiate a criminal action against the person  
6 conducting the activities.

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

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

14 76-1441 The person seeking possession shall file a  
15 complaint for restitution with the clerk of the district or county  
16 court. The complaint shall contain (a) the facts, with particularity,  
17 on which he or she seeks to recover; (b) a reasonably accurate  
18 description of the premises; and (c) the requisite compliance with  
19 the notice provisions of the Uniform Residential Landlord and Tenant  
20 Act. In addition, if the person is seeking possession pursuant to  
21 subsection (3) of section 76-1431 the complaint shall include a  
22 statement of the incident or incidents giving rise to the notice of  
23 termination and notice to quit. The complaint may notify the tenant  
24 that personal property remains on the premises and that it may be  
25 disposed of pursuant to section 69-2308. The complaint may also

1 contain other causes of action relating to the tenancy, but such  
2 causes of action shall be answered and tried separately, if requested  
3 by either party in writing.

4                   Sec. 3. Original sections 76-1431 and 76-1441, Reissue  
5 Revised Statutes of Nebraska, are repealed.