

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 409

Introduced by McCollister, 20; Morfeld, 46; Pansing Brooks, 28; Schnoor,
15.

Read first time January 16, 2015

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to landlords and tenants; to amend sections
- 2 76-1410 and 76-1416, Reissue Revised Statutes of Nebraska; to
- 3 redefine the term tenant; to change the maximum pet deposit; and to
- 4 repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 76-1410, Reissue Revised Statutes of Nebraska, is
2 amended to read:

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

6 (1) Action includes recoupment, counterclaim, setoff, suit in
7 equity, and any other proceeding in which rights are determined,
8 including an action for possession.

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

16 (3) Dwelling unit means a structure or the part of a structure that
17 is used as a home, residence, or sleeping place by one person who
18 maintains a household or by two or more persons who maintain a common
19 household.

20 (4) Good faith means honesty in fact in the conduct of the
21 transaction concerned.

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

25 (6) Organization includes a corporation, government, governmental
26 subdivision or agency, business trust, estate, trust, partnership,
27 limited liability company, or association, two or more persons having a
28 joint or common interest, and any other legal or commercial entity.

29 (7) Owner means one or more persons, jointly or severally, in whom
30 is vested (a) all or part of the legal title to property, or (b) all or
31 part of the beneficial ownership and a right to present use and enjoyment

1 of the premises; and the term includes a mortgagee in possession.

2 (8) Person includes an individual, limited liability company, or
3 organization.

4 (9) Premises means a dwelling unit and the structure of which it is
5 a part and facilities and appurtenances therein and grounds, areas, and
6 facilities held out for the use of tenants generally or whose use is
7 promised to the tenant.

8 (10) Rent means all payments to be made to the landlord under the
9 rental agreement.

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

14 (12) Roomer means a person occupying a dwelling unit that lacks a
15 major bathroom or kitchen facility, in a structure where one or more
16 major facilities are used in common by occupants of the dwelling units.
17 Major facility in the case of a bathroom means toilet, or either a bath
18 or shower, and in the case of a kitchen means refrigerator, stove, or
19 sink.

20 (13) Single-family residence means a structure maintained and used
21 as a single dwelling unit. Notwithstanding that a dwelling unit shares
22 one or more walls with another dwelling unit, it is a single-family
23 residence if it has direct access to a street or thoroughfare and shares
24 neither heating facilities, hot water equipment, nor any other essential
25 facility or service with any other dwelling unit.

26 (14) Tenant means the person named in a rental agreement who is
27 entitled to occupy a dwelling unit to the exclusion of others. Only
28 persons named in a rental agreement and their dependent children under
29 nineteen years of age shall be considered tenants and all other persons
30 permanently residing on the premises shall be considered trespassers a
31 person entitled under a rental agreement to occupy a dwelling unit to the

1 ~~exclusion of others.~~

2 Sec. 2. Section 76-1416, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 76-1416 (1) A landlord may not demand or receive security, however
5 denominated, in an amount or value in excess of one month's periodic
6 rent, except that a pet deposit not in excess of one-half ~~one-fourth~~ of
7 one month's periodic rent may be demanded or received when appropriate,
8 but this subsection shall not be applicable to housing agencies organized
9 or existing under the Nebraska Housing Agency Act.

10 (2) Upon termination of the tenancy, property or money held by the
11 landlord as prepaid rent and security may be applied to the payment of
12 rent and the amount of damages which the landlord has suffered by reason
13 of the tenant's noncompliance with the rental agreement or section
14 76-1421. The balance, if any, and a written itemization shall be
15 delivered or mailed to the tenant within fourteen days after demand and
16 designation of the location where payment may be made or mailed.

17 (3) If the landlord fails to comply with subsection (2) of this
18 section, the tenant may recover the property and money due him or her and
19 reasonable attorney's fees.

20 (4) This section does not preclude the landlord or tenant from
21 recovering other damages to which he or she may be entitled under the
22 Uniform Residential Landlord and Tenant Act.

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

25 Sec. 3. Original sections 76-1410 and 76-1416, Reissue Revised
26 Statutes of Nebraska, are repealed.