

AMENDMENTS TO LB433

Introduced by Hansen, M., 26.

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

3 Section 1. Section 76-1416, Reissue Revised Statutes of Nebraska, is
4 amended to read:

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

11 (2) Upon termination of the tenancy, property or money held by the
12 landlord as prepaid rent and security may be applied to the payment of
13 rent and the amount of damages which the landlord has suffered by reason
14 of the tenant's noncompliance with the rental agreement or section
15 76-1421. The balance, if any, and a written itemization shall be
16 delivered or mailed to the tenant within fourteen days after the date of
17 termination of the tenancy. If no mailing address or instructions are
18 provided by the tenant to the landlord, the landlord shall mail, by
19 first-class mail, the balance of the security deposit to be returned, if
20 any, and a written itemization of the amount of the security deposit not
21 returned to the tenant's last-known mailing address. If the mailing is
22 returned as undeliverable, or if the returned balance of the security
23 deposit remains outstanding thirty days after the date of the mailing,
24 the landlord shall, not later than sixty days after the date of the
25 mailing, remit the outstanding balance of the security deposit to the
26 State Treasurer for disposition pursuant to the Uniform Disposition of
27 Unclaimed Property Act ~~demand and designation of the location where~~

1 ~~payment may be made or mailed.~~

2 (3) If the landlord fails to comply with subsection (2) of this
3 section, the tenant may recover the property and money due him or her,
4 court costs, and reasonable attorney's fees. In addition, if the
5 landlord's failure to comply with subsection (2) of this section is
6 willful and not in good faith, the tenant may recover an amount equal to
7 one month's periodic rent or two times the amount of the security
8 deposit, whichever is less, as liquidated damages.

9 (4) This section does not preclude the landlord or tenant from
10 recovering other damages to which he or she may be entitled under the
11 Uniform Residential Landlord and Tenant Act. However, a tenant shall not
12 be liable for damages directly related to the tenant's removal from the
13 premises by order of any governmental entity as a result of the premises
14 not being fit for habitation due to the negligence or neglect of the
15 landlord.

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

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

20 76-1431 (1) Except as provided in the Uniform Residential Landlord
21 and Tenant Act, if there is a noncompliance with section 76-1421
22 materially affecting health and safety or a material noncompliance by the
23 tenant with the rental agreement or any separate agreement, the landlord
24 may deliver a written notice to the tenant specifying the acts and
25 omissions constituting the breach and that the rental agreement will
26 terminate upon a date not less than thirty days after receipt of the
27 notice if the breach is not remedied in fourteen days, and the rental
28 agreement shall terminate as provided in the notice subject to the
29 following. If the breach is remediable by repairs or the payment of
30 damages or otherwise and the tenant adequately remedies the breach prior
31 to the date specified in the notice, the rental agreement will not

1 terminate. If substantially the same act or omission which constituted a
2 prior noncompliance of which notice was given recurs within six months,
3 the landlord may terminate the rental agreement upon at least fourteen
4 days' written notice specifying the breach and the date of termination of
5 the rental agreement.

6 (2) If rent is unpaid when due and the tenant fails to pay rent
7 within seven calendar ~~three~~ days after written notice by the landlord of
8 nonpayment and his or her intention to terminate the rental agreement if
9 the rent is not paid within that period of time, the landlord may
10 terminate the rental agreement.

11 (3) Except as provided in the Uniform Residential Landlord and
12 Tenant Act, the landlord may recover damages and obtain injunctive relief
13 for any noncompliance by the tenant with the rental agreement or section
14 76-1421. If the tenant's noncompliance is willful, the landlord may
15 recover reasonable attorney's fees.

16 (4) Notwithstanding subsections (1) and (2) of this section or
17 section 25-21,221, a landlord may, after five days' written notice of
18 termination of the rental agreement and without the right of the tenant
19 to cure the default, file suit and have judgment against any tenant or
20 occupant for recovery of possession of the premises if the tenant,
21 occupant, member of the tenant's household, guest, or other person who is
22 under the tenant's control or who is present upon the premises with the
23 tenant's consent, engages in any violent criminal activity on the
24 premises, the illegal sale of any controlled substance on the premises,
25 or any other activity that threatens the health or safety of other
26 tenants, the landlord, or the landlord's employees or agents. Such
27 activity shall include, but not be limited to, any of the following
28 activities of the tenant, occupant, member of the tenant's household,
29 guest, or other person who is under the tenant's control or who is
30 present upon the premises with the tenant's consent: (a) Physical assault
31 or the threat of physical assault; (b) illegal use of a firearm or other

1 weapon or the threat of illegal use of a firearm or other weapon; (c)
2 possession of a controlled substance if the tenant knew or should have
3 known of the possession, unless such controlled substance was obtained
4 directly from or pursuant to a medical order issued by a practitioner
5 legally authorized to prescribe while acting in the course of his or her
6 professional practice; or (d) any other activity or threatened activity
7 which would otherwise threaten the health or safety of any person or
8 involving threatened, imminent, or actual damage to the property.

9 (5) Subsection (4) of this section does not apply to a tenant if the
10 violent criminal activity, illegal sale of any controlled substance, or
11 other activity that threatens the health or safety of other tenants, the
12 landlord, or the landlord's employees or agents, as set forth in
13 subsection (4) of this section, is conducted by a person on the premises
14 other than the tenant and the tenant takes at least one of the following
15 measures against the person engaging in such activity:

16 (a) The tenant seeks a protective order, restraining order, or other
17 similar relief which would apply to the person conducting such activity;
18 or

19 (b) The tenant reports such activity to a law enforcement agency in
20 an effort to initiate a criminal action against the person conducting the
21 activity.

22 Sec. 3. Original sections 76-1416 and 76-1431, Reissue Revised
23 Statutes of Nebraska, are repealed.