

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 864

Introduced by Wayne, 13.

Read first time January 09, 2020

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to cities of the metropolitan class; to adopt
- 2 the Bed Bug Detection and Treatment Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 8 of this act shall be known and may be
2 cited as the Bed Bug Detection and Treatment Act.

3 Sec. 2. For purposes of the Bed Bug Detection and Treatment Act:

4 (1) Bed bug means the common bed bug or Cimex lectularius;

5 (2) Bed bug detection team means a scent detection canine team that
6 holds a current, independent, third-party certification in accordance
7 with the guidelines for minimum standards for canine bed bug detection
8 team certification established by the national pest management
9 association or its successor organization;

10 (3) Commercial applicator has the meaning set forth in section
11 2-2624;

12 (4) Contiguous dwelling unit means a dwelling unit that is
13 contiguous with another dwelling unit, both of which units are owned,
14 managed, leased, or subleased by the same landlord;

15 (5) Dwelling unit means a structure or the part of a structure that
16 is used as a home, residence, or sleeping place by a tenant;

17 (6) Electronic notice means notice by e-mail or an electronic portal
18 or management communications system that is available to both a landlord
19 and a tenant;

20 (7) Landlord means the owner, manager, lessor, or sublessor of a
21 residential premises in a city of the metropolitan class;

22 (8) Licensed certified applicator has the meaning set forth in
23 section 2-2624;

24 (9) Pest control agent means a commercial applicator or a licensed
25 certified applicator;

26 (10) Qualified inspector means a bed bug detection team, local
27 public health department official, licensed certified applicator, or
28 commercial applicator who is retained by a landlord to conduct an
29 inspection for bed bugs; and

30 (11) Tenant means a person entitled under a rental agreement to
31 occupy a dwelling unit in a city of the metropolitan class to the

1 exclusion of others.

2 Sec. 3. (1) A tenant shall promptly notify the tenant's landlord by
3 written or electronic notice when the tenant knows or reasonably suspects
4 that the tenant's dwelling unit contains bed bugs. A tenant who gives a
5 landlord electronic notice of a condition shall deliver such notice only
6 to the e-mail address, telephone number, or electronic portal specified
7 by the landlord in the rental agreement for communications. In the
8 absence of such a provision in the rental agreement, the tenant shall
9 communicate with the landlord in a manner that the landlord has
10 previously used to communicate with the tenant. The tenant shall retain
11 sufficient proof of the delivery of the electronic notice.

12 (2) Not more than ninety-six hours after receiving notice of the
13 presence of bed bugs or the possible presence of bed bugs, a landlord,
14 after providing notice to the tenant as described in subsection (1) of
15 section 5 of this act:

16 (a) Shall cause an inspection of the dwelling unit to be performed
17 by a qualified inspector; and

18 (b) May enter the dwelling unit or any contiguous dwelling unit for
19 the purpose of allowing the inspection as provided in section 4 of this
20 act.

21 (3) If the inspection of a dwelling unit confirms the presence of
22 bed bugs, the landlord shall also cause to be performed an inspection of
23 all contiguous dwelling units as promptly as is reasonably practical.

24 Sec. 4. (1) If a landlord obtains an inspection for bed bugs, the
25 landlord shall provide written notice to the tenant within two business
26 days after the inspection indicating whether the dwelling unit contains
27 bed bugs.

28 (2) If a qualified inspector conducting an inspection determines
29 that neither the dwelling unit nor any contiguous dwelling unit contains
30 bed bugs, the notice provided by the landlord pursuant to subsection (1)
31 of this section shall inform the tenant that if the tenant remains

1 concerned that the dwelling unit contains bed bugs, the tenant may
2 contact the local public health department to report such concerns.

3 (3) If a qualified inspector conducting an inspection determines
4 that a dwelling unit or any contiguous dwelling unit contains bed bugs in
5 any stage of the life cycle, the qualified inspector shall provide a
6 report of the determination to the landlord within twenty-four hours,
7 except that for any such determination that is made by a qualified
8 inspector licensed by the Director of Agriculture pursuant to the
9 Pesticide Act, the qualified inspector shall provide the report in
10 accordance with rules and regulations adopted and promulgated by the
11 Director of Agriculture pursuant to section 2-2626. Not later than five
12 business days after the date of the inspection, the landlord shall
13 commence reasonable measures, as determined by the qualified inspector,
14 to effectively treat the bed bug presence, including retaining the
15 services of a pest control agent to treat the dwelling unit and any
16 contiguous dwelling unit.

17 (4) Except as otherwise provided in the Bed Bug Detection and
18 Treatment Act, a landlord is responsible for all costs associated with an
19 inspection for, and treatment of, bed bugs. Nothing in this section
20 prohibits a tenant from contacting any agency at any time concerning the
21 presence of bed bugs.

22 Sec. 5. (1)(a) If a landlord, qualified inspector, or pest control
23 agent must enter a dwelling unit for the purpose of conducting an
24 inspection for, or treating the presence of, bed bugs, the landlord shall
25 provide the tenant reasonable written or electronic notice of such fact
26 at least forty-eight hours before the landlord, qualified inspector, or
27 pest control agent attempts to enter the dwelling unit, except that a
28 rental agreement may provide for a different minimum time for the notice.
29 A tenant who receives such notice shall not unreasonably deny the
30 landlord, qualified inspector, or pest control agent access to the
31 dwelling unit.

1 (b) A tenant may waive the notice requirement described in
2 subdivision (1)(a) of this section.

3 (2) A qualified inspector who is inspecting a dwelling unit for bed
4 bugs may conduct an initial visual and manual inspection of a tenant's
5 bedding and upholstered furniture. The qualified inspector may inspect
6 items other than bedding and upholstered furniture when the qualified
7 inspector determines that such an inspection is necessary and reasonable.

8 (3) If a qualified inspector finds bed bugs in a dwelling unit or in
9 any contiguous dwelling unit, the qualified inspector may have such
10 additional access to the tenant's personal belongings as the qualified
11 inspector determines is necessary and reasonable.

12 (4) A tenant shall comply with reasonable measures to permit the
13 inspection for, and the treatment of, the presence of bed bugs as
14 determined by the qualified inspector, and the tenant is responsible for
15 all costs associated with preparing the tenant's dwelling unit for
16 inspection and treatment. A tenant who knowingly and unreasonably fails
17 to comply with the inspection and treatment requirements described in the
18 Bed Bug Detection and Treatment Act is liable for the cost of any bed bug
19 treatments of the dwelling unit and contiguous dwelling units if the need
20 for such treatments arises from the tenant's noncompliance.

21 (5) If any furniture, clothing, equipment, or personal property
22 belonging to a tenant is found to contain bed bugs, the qualified
23 inspector shall advise the tenant that the furniture, clothing,
24 equipment, or personal property should not be removed from the dwelling
25 unit until a pest control agent determines that a bed bug treatment has
26 been completed, except that if the determination that any furniture,
27 clothing, equipment, or personal property contains bed bugs is made by a
28 qualified inspector licensed by the Director of Agriculture pursuant to
29 the Pesticide Act, the qualified inspector shall advise the tenant
30 regarding the removal of the furniture, clothing, equipment, or personal
31 property in accordance with rules and regulations adopted and promulgated

1 by the Director of Agriculture pursuant to section 2-2626. The tenant
2 shall not dispose of personal property that was determined to contain bed
3 bugs in any common area where such disposal may risk the infestation of
4 other dwelling units.

5 (6)(a) Nothing in this section requires a landlord to provide a
6 tenant with alternative lodging or to pay to replace a tenant's personal
7 property.

8 (b) Nothing in this section preempts or restricts the application of
9 any state or federal law concerning reasonable accommodations for persons
10 with disabilities.

11 Sec. 6. A landlord shall not offer for rent a dwelling unit that
12 the landlord knows or reasonably suspects to contain bed bugs. Upon
13 request from a prospective tenant, a landlord shall disclose to the
14 prospective tenant whether, to the landlord's knowledge, the dwelling
15 unit that the landlord is offering for rent contained bed bugs within the
16 previous eight months. Upon request from a tenant or a prospective
17 tenant, a landlord shall disclose the last date, if any, on which a
18 dwelling unit being rented or offered for rent was inspected for, and
19 found to be free of, bed bugs.

20 Sec. 7. (1) A landlord who fails to comply with the Bed Bug
21 Detection and Treatment Act is liable to the tenant for the tenant's
22 actual damages.

23 (2) A landlord may apply to a court of competent jurisdiction to
24 obtain injunctive relief against a tenant who (a) refuses to provide
25 reasonable access to a dwelling unit or (b) fails to comply with a
26 reasonable request for inspection or treatment of a dwelling unit.

27 (3) If a court finds that a tenant has unreasonably failed to comply
28 with one or more requirements set forth in the Bed Bug Detection and
29 Treatment Act, the court may issue a temporary order to carry out the
30 act, including:

31 (a) Granting the landlord access to the dwelling unit for the

1 purposes set forth in the act;

2 (b) Granting the landlord the right to engage in bed bug inspection
3 and treatment measures in the dwelling unit; and

4 (c) Requiring the tenant to comply with specific bed bug inspection
5 and treatment measures or assessing the tenant with costs and damages
6 related to the tenant's noncompliance.

7 (4) Any court order granting a landlord access to a dwelling unit
8 shall be served upon the tenant at least twenty-four hours before a
9 landlord, qualified inspector, or pest control agent enters the dwelling
10 unit.

11 (5)(a) The remedies in this section are in addition to any other
12 remedies available at law or in equity to any person.

13 (b) This section does not limit or restrict the authority of any
14 state or local housing or health code enforcement agency.

15 Sec. 8. Notwithstanding any provision of the Uniform Residential
16 Landlord and Tenant Act to the contrary, a landlord who complies with the
17 Bed Bug Detection and Treatment Act is deemed to have satisfied the
18 requirements of section 76-1419 with respect to matters concerning bed
19 bugs.