

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1115

Introduced by Dungan, 26.

Read first time January 10, 2024

Committee: Judiciary

1 A BILL FOR AN ACT relating to the Uniform Residential Landlord and Tenant
2 Act; to amend sections 76-1415, 76-1442, 76-1445, and 76-1446,
3 Reissue Revised Statutes of Nebraska, and section 76-1441, Revised
4 Statutes Cumulative Supplement, 2022; to provide a right to a trial
5 by jury as prescribed; to harmonize provisions; and to repeal the
6 original sections.

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

1 Section 1. Section 76-1415, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 76-1415 (1) No rental agreement may provide that the tenant:

4 (a) Agrees to waive or to forego rights or remedies under the
5 Uniform Residential Landlord and Tenant Act or other federal or state
6 law;

7 (b) Authorizes any person to confess judgment on a claim arising out
8 of the rental agreement;

9 (c) Agrees to pay the landlord's or tenant's attorney's fees; or

10 (d) Agrees to the exculpation or limitation of any liability of the
11 landlord arising due to active and actionable negligence of the landlord
12 or to indemnify the landlord for that liability arising due to active and
13 actionable negligence or the costs connected therewith.

14 (2) A provision prohibited by subsection (1) of this section
15 included in a rental agreement is unenforceable. If a landlord
16 deliberately uses a rental agreement containing provisions known by him
17 or her to be prohibited, the tenant may recover actual damages sustained
18 by him or her and reasonable attorney's fees.

19 Sec. 2. Section 76-1441, Revised Statutes Cumulative Supplement,
20 2022, is amended to read:

21 76-1441 (1) The person seeking possession shall file a complaint for
22 restitution with the clerk of the district or county court. The complaint
23 shall contain (a) the specific statutory authority under which possession
24 is sought; (b) the facts, with particularity, on which he or she seeks to
25 recover; (c) a reasonably accurate description of the premises; and (d)
26 the requisite compliance with the notice provisions of the Uniform
27 Residential Landlord and Tenant Act. The complaint may notify the tenant
28 that personal property remains on the premises and that it may be
29 disposed of pursuant to section 69-2308 or subsection (5) of section
30 76-1414. The complaint may contain a demand for a trial by jury. The
31 complaint may also contain other causes of action relating to the

1 tenancy, but such causes of action shall be answered and tried
2 separately, if requested by either party in writing.

3 (2) The person seeking possession pursuant to subsection (4) of
4 section 76-1431 shall include in the complaint the incident or incidents
5 giving rise to the suit for recovery of possession.

6 Sec. 3. Section 76-1442, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 76-1442 The summons shall be issued and directed, with a copy of the
9 complaint attached thereto, and shall state the cause of the complaint,
10 the time and place of trial of the action for possession, answer day for
11 other causes of action, ~~and~~ notice that if the defendant fails to appear
12 judgment shall be entered against him or her, and notice that the
13 defendant has a right to a trial by jury and that the defendant may
14 demand a trial by jury if he or she so chooses. The summons may be served
15 and returned as in other cases or by any person, except that the summons
16 shall be served within three days, excluding nonjudicial days, from the
17 date of issuance and shall be returnable within five days, excluding
18 nonjudicial days, from the date of issuance. The person making the
19 service shall file with the court an affidavit stating with particularity
20 the manner in which he or she made the service. If diligent efforts have
21 been made to serve the summons in the manner provided in sections
22 25-505.01 to 25-516.01 but such efforts were unsuccessful, the summons
23 may be served in the manner provided in section 76-1442.01.

24 Sec. 4. Section 76-1445, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 76-1445 On or before the day fixed for his or her appearance, the
27 defendant may appear and answer and assert any legal or equitable
28 defense, setoff, or counterclaim and may demand a trial by jury. If the
29 defendant has not demanded a trial by jury by the time of his or her
30 first appearance, the court shall inform the defendant of the right to a
31 trial by jury and, if the action is filed in county court, shall inquire

1 whether the defendant demands a trial by jury or elects to have the
2 action tried by the court without a jury.

3 Sec. 5. Section 76-1446, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 76-1446 The proceedings shall be in all respects as in other cases,
6 except that if either party requests a trial by jury, the trial of the
7 action for possession shall be scheduled by the court as soon as is
8 practicable for the proper administration of justice. ~~Trial of the action~~
9 ~~for possession shall be held not less than ten nor more than fourteen~~
10 ~~days after the issuance of the summons. The action shall be tried by the~~
11 ~~court without a jury.~~ If the plaintiff serves the summons in the manner
12 provided in section 76-1442.01, the action shall proceed as other actions
13 for possession except that a money judgment shall not be granted for the
14 plaintiff. If judgment is rendered against the defendant for the
15 restitution of the premises, the court shall declare the forfeiture of
16 the rental agreement, and shall, at the request of the plaintiff or his
17 or her attorney, issue a writ of restitution, directing the constable or
18 sheriff to restore possession of the premises to the plaintiff on a
19 specified date not more than ten days after issuance of the writ of
20 restitution. The plaintiff shall comply with the Disposition of Personal
21 Property Landlord and Tenant Act and subsection (5) of section 76-1414 in
22 the removal of personal property remaining on the premises at the time
23 possession of the premises is restored.

24 Sec. 6. Original sections 76-1415, 76-1442, 76-1445, and 76-1446,
25 Reissue Revised Statutes of Nebraska, and section 76-1441, Revised
26 Statutes Cumulative Supplement, 2022, are repealed.