

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 175**

Introduced by Hilgert, 7

Read first time January 8, 1999

Committee: Judiciary

A BILL

1 FOR AN ACT relating to landlord and tenant; to amend sections  
2 20-131.04, 69-2304, 69-2308, 76-1416, 76-1446, and  
3 76-1483, Reissue Revised Statutes of Nebraska; to change  
4 provisions relating to disposition of personal property,  
5 security deposits, and actions for possession; and to  
6 repeal the original sections.  
7 Be it enacted by the people of the State of Nebraska,

1           Section 1.   Section 20-131.04, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           20-131.04.   Every totally or partially blind person who  
4 has a dog guide or who obtains a dog guide, every hearing-impaired  
5 person who has a hearing aid dog or who obtains a hearing aid dog,  
6 and every physically disabled person who has a service dog or  
7 obtains a service dog shall have full and equal access to all  
8 housing accommodations with such dog as prescribed in sections  
9 20-131.01 to 20-131.04. Such person shall not be required to pay  
10 extra compensation for such dog. Such person shall be liable for  
11 any damage done to such premises by such dog. Any person who  
12 rents, leases, or provides housing accommodations for compensation  
13 may demand or receive a reasonable dog deposit, not to exceed  
14 ~~one-fourth~~ one-half of one month's periodic rent, from any totally  
15 or partially blind person who has or obtains a dog guide, from any  
16 hearing-impaired person who has or obtains a hearing aid dog, or  
17 from any physically disabled person who has or obtains a service  
18 dog.

19           Sec. 2.   Section 69-2304, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           69-2304.   A notice given pursuant to section 69-2303  
22 shall contain one of the following statements, as appropriate:

23           (1) "If you fail to reclaim the property, it will be sold  
24 at a public sale after notice of the sale has been given by  
25 publication. You have the right to bid on the property at this  
26 sale. After the property is sold and the costs of storage,  
27 advertising, and sale are deducted, the remaining money will be  
28 turned over to the State Treasurer pursuant to the Uniform

1 Disposition of Unclaimed Property Act. You may claim the remaining  
2 money from the office of the State Treasurer as provided in such  
3 act."; or

4 (2) "Because this property is believed to be worth less  
5 than ~~two hundred fifty~~ one thousand dollars, it may be kept, sold,  
6 or destroyed without further notice if you fail to reclaim it  
7 within the time indicated in this notice."

8 Sec. 3. Section 69-2308, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10 69-2308. (1) If the personal property is not released  
11 pursuant to section 69-2307, it shall be sold at public sale by  
12 competitive bidding, except that if the landlord reasonably  
13 believes that the total resale value of the property not released  
14 is less than ~~two hundred fifty~~ one thousand dollars, he or she may  
15 retain such property for his or her own use or dispose of it in any  
16 manner he or she chooses. At such time as the decision to sell or  
17 to retain is made, any locked trunk, valise, box, or other  
18 container shall be opened, if practicable, with as little damage as  
19 possible, and its contents evaluated. Nothing in this section shall  
20 be construed to preclude the landlord or the tenant from bidding on  
21 the property at the public sale. The successful bidder's title  
22 shall be subject to ownership rights, liens, and security interests  
23 which have priority by law.

24 (2) Notice of the time and place of the public sale shall  
25 be given by advertisement of the sale published once a week for two  
26 consecutive weeks in a newspaper of general circulation in the  
27 county where the sale is to be held. If there is no newspaper of  
28 general circulation in the county where the sale is to be held, the

1 advertisement shall be posted no fewer than ten days before the  
2 sale in not less than six conspicuous places in the neighborhood of  
3 the proposed sale. The sale shall be held at the nearest suitable  
4 place to the place where the personal property is held or stored.  
5 The advertisement shall include a description of the goods, the  
6 name of the former tenant, and the time and place of the sale. The  
7 sale shall take place no sooner than ten days after the first  
8 publication. The last publication shall be no less than five days  
9 before the sale is to be held. Notice of sale may be published  
10 before the last of the dates specified for taking possession of the  
11 property in any notice given pursuant to section 69-2303.

12 (3) The notice of the sale shall describe the property to  
13 be sold in a manner reasonably adequate to permit the owner of the  
14 property to identify it. The notice may describe all or a portion  
15 of the property, but the limitation of liability provided by  
16 section 69-2309 shall not release the landlord from any liability  
17 arising from the disposition of property not described in the  
18 notice.

19 (4) After deduction of the reasonable costs of storage,  
20 advertising, and sale, any proceeds of the sale not claimed by the  
21 former tenant, an owner other than such tenant, or another person  
22 having an interest in the proceeds shall, not later than thirty  
23 days after the date of sale, be remitted to the State Treasurer for  
24 disposition pursuant to the Uniform Disposition of Unclaimed  
25 Property Act. The former tenant, other owner, or other person  
26 having interest in the proceeds may claim the proceeds by complying  
27 with the act. If the State Treasurer pays the proceeds or any part  
28 thereof to a claimant, neither the State Treasurer nor any employee

1 thereof shall be liable to any other claimant as to the amount  
2 paid.

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

5           76-1416.   (1) A landlord may not demand or receive  
6 security, however denominated, in an amount or value in excess of  
7 ~~one~~ two month's periodic rent, except that a pet deposit not in  
8 excess of ~~one-fourth~~ one-half of one month's periodic rent may be  
9 demanded or received when appropriate, but this subsection shall  
10 not be applicable to housing authorities organized or existing  
11 under ~~sections 71-1518 to 71-1554~~ the Nebraska Housing Authorities  
12 Law.

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

21           (3) If the landlord fails to comply with subsection (2)  
22 the tenant may recover the property and money due him or her and  
23 reasonable attorney's fees.

24           (4) This section does not preclude the landlord or tenant  
25 from recovering other damages to which he or she may be entitled  
26 under ~~sections~~ the Uniform Residential Landlord and Tenant Act and  
27 section 25-21,219. and 76-1401 to 76-1449.

28           (5) The holder of the landlord's interest in the premises

1 at the time of the termination of the tenancy is bound by this  
2 section.

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

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

24 Sec. 6. Section 76-1483, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26 76-1483. A landlord shall not demand or receive as  
27 rental deposit an amount or value in excess of ~~one~~ two month's  
28 periodic rent.

1                   Sec. 7. Original sections 20-131.04, 69-2304, 69-2308,  
2 76-1416, 76-1446, and 76-1483, Reissue Revised Statutes of  
3 Nebraska, are repealed.