

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1038

Introduced by Hansen, M., 26.

Read first time January 13, 2022

Committee: Judiciary

1 A BILL FOR AN ACT relating to the Uniform Residential Landlord and Tenant
2 Act; to amend section 76-1415, Reissue Revised Statutes of Nebraska,
3 and section 76-1410, Revised Statutes Supplement, 2021; to define a
4 term; to prohibit a cleaning and damage provision in a rental
5 agreement; to harmonize provisions; and to repeal the original
6 sections.

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

1 Section 1. Section 76-1410, Revised Statutes Supplement, 2021, 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) Act of domestic violence means abuse as defined in section
7 42-903, sexual assault under sections 28-319 to 28-320.01, domestic
8 assault under section 28-323, stalking under section 28-311.03, labor or
9 sex trafficking under section 28-831, and knowing and intentional abuse,
10 neglect, or exploitation of a vulnerable adult or senior adult under
11 section 28-386.

12 (2) Action includes recoupment, counterclaim, setoff, suit in
13 equity, and any other proceeding in which rights are determined,
14 including an action for possession.

15 (3) Building and housing codes include any law, ordinance, or
16 governmental regulation concerning fitness for habitation, or the
17 construction, maintenance, operation, occupancy, use, or appearance of
18 any premises, or dwelling unit. Minimum housing code shall be limited to
19 those laws, resolutions, or ordinances or regulations, or portions
20 thereof, dealing specifically with health and minimum standards of
21 fitness for habitation.

22 (4) Dwelling unit means a structure or the part of a structure that
23 is used as a home, residence, or sleeping place by one person who
24 maintains a household or by two or more persons who maintain a common
25 household.

26 (5) Good faith means honesty in fact in the conduct of the
27 transaction concerned.

28 (6) Household member means a child or adult, other than the
29 perpetrator of an act of domestic violence, who resides with a tenant.

30 (7) Landlord means the owner, lessor, or sublessor of the dwelling
31 unit or the building of which it is a part, and it also means a manager

1 of the premises who fails to disclose as required by section 76-1417.

2 (8) Ordinary wear and tear means deterioration that results from the
3 intended use of a dwelling unit, including the breakage or malfunction
4 due to age or deteriorated condition. The term does not include
5 deterioration that results from negligence, carelessness, accident, or
6 abuse of the dwelling unit or fixtures, equipment, or other tangible
7 property left behind by the tenant.

8 (9) (8) Organization includes a corporation, government,
9 governmental subdivision or agency, business trust, estate, trust,
10 partnership, limited liability company, or association, two or more
11 persons having a joint or common interest, and any other legal or
12 commercial entity.

13 (10) (9) Owner means one or more persons, jointly or severally, in
14 whom is vested (a) all or part of the legal title to property, or (b) all
15 or part of the beneficial ownership and a right to present use and
16 enjoyment of the premises; and the term includes a mortgagee in
17 possession.

18 (11) (10) Person includes an individual, limited liability company,
19 or organization.

20 (12) (11) Qualified third party means an organization that (a) is a
21 nonprofit organization organized under section 501(c)(3) of the Internal
22 Revenue Code or a federally recognized Indian tribe whose governmental
23 body is within the borders of Nebraska and (b) has an affiliation
24 agreement with the Department of Health and Human Services to provide
25 services to victims of domestic violence and sexual assault under the
26 Protection from Domestic Abuse Act.

27 (13) (12) Premises means a dwelling unit and the structure of which
28 it is a part and facilities and appurtenances therein and grounds, areas,
29 and facilities held out for the use of tenants generally or whose use is
30 promised to the tenant.

31 (14) (13) Rent means all payments to be made to the landlord under

1 the rental agreement.

2 (15) (14) Rental agreement means all agreements, written or oral,
3 between a landlord and tenant, and valid rules and regulations adopted
4 under section 76-1422 embodying the terms and conditions concerning the
5 use and occupancy of a dwelling unit and premises.

6 (16) (15) Roomer means a person occupying a dwelling unit that lacks
7 a major bathroom or kitchen facility, in a structure where one or more
8 major facilities are used in common by occupants of the dwelling units.
9 Major facility in the case of a bathroom means toilet, or either a bath
10 or shower, and in the case of a kitchen means refrigerator, stove, or
11 sink.

12 (17) (16) Single-family residence means a structure maintained and
13 used as a single dwelling unit. Notwithstanding that a dwelling unit
14 shares one or more walls with another dwelling unit, it is a single-
15 family residence if it has direct access to a street or thoroughfare and
16 shares neither heating facilities, hot water equipment, nor any other
17 essential facility or service with any other dwelling unit.

18 (18) (17) Tenant means a person entitled under a rental agreement to
19 occupy a dwelling unit to the exclusion of others.

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

22 76-1415 (1) No rental agreement may provide that the tenant:

23 (a) Agrees to waive or to forego rights or remedies under the
24 Uniform Residential Landlord and Tenant Act;

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

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

28 (d) Agrees to the exculpation or limitation of any liability of the
29 landlord arising due to active and actionable negligence of the landlord
30 or to indemnify the landlord for that liability arising due to active and
31 actionable negligence or the costs connected therewith; or ~~or~~

1 (e) Agrees to pay a predetermined amount for cleaning or damages to
2 the dwelling unit upon termination of the rental agreement or agrees that
3 such amount or any other fees or charges may be automatically deducted
4 from the security deposit, except those specifically permitted under the
5 Uniform Residential Landlord and Tenant Act.

6 (2) A provision prohibited by subsection (1) of this section
7 included in a rental agreement is unenforceable. If a landlord
8 deliberately uses a rental agreement containing provisions known by the
9 landlord ~~him or her~~ to be prohibited, the tenant may recover actual
10 damages not less than an amount equal to one month's rent ~~sustained by~~
11 ~~him or her~~ and reasonable attorney's fees.

12 Sec. 3. Original section 76-1415, Reissue Revised Statutes of
13 Nebraska, and section 76-1410, Revised Statutes Supplement, 2021, are
14 repealed.