

## LEGISLATIVE BILL 324

Approved by the Governor March 29, 1991

Introduced by Hall, 7

AN ACT relating to the Uniform Residential Landlord and Tenant Act; to amend sections 76-1401, 76-1440, and 76-1442, Reissue Revised Statutes of Nebraska, 1943; to authorize constructive service for actions to recover possession of premises; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 76-1401, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-1401. Sections ~~25-21,219~~ and 76-1401 to 76-1449 and section 4 of this act shall be known and may be cited as the Uniform Residential Landlord and Tenant Act.

Sec. 2. That section 76-1440, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-1440. An action for possession of any premises subject to the Uniform Residential Landlord and Tenant Act provisions of sections 25-21,219 and 76-1401 to 76-1449 shall be commenced in the manner described by sections 76-1440 to 76-1447 and section 4 of this act.

Sec. 3. That section 76-1442, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-1442. The summons shall be issued and directed, with a copy of the petition attached thereto, and shall state the cause of the complaint, the time and place of trial of the action for possession, answer day for other causes of action, and notice that if the defendant fails to appear judgment shall be entered against him or her. The summons may be served and returned as in other cases, or by any person, except that the summons shall be served within three days, excluding Saturdays, Sundays, and holidays, from the date of ~~its~~ issuance and shall be returnable within five days, excluding Saturdays, Sundays, and holidays, from the date of ~~its~~ issuance. The person making the service shall file with the court an affidavit stating with particularity the manner in which he or she made the

service. If diligent efforts have been made to serve the summons in the manner provided in sections 25-505.01 to 25-516.01 but such efforts were unsuccessful, the summons may be served in the manner provided in section 4 of this act. If a plaintiff serves the summons in the manner provided in section 4 of this act, the case shall be heard, judgment rendered, and proceedings had as in other cases, except that a money judgment may not be granted for the plaintiff. Trial of the action for possession shall be held not less than ten nor more than fourteen days after the date of issuance of the summons.

Sec. 4. When authorized by section 76-1442, service of a summons issued under such section may be made by leaving a copy of the summons at the defendant's last-known address and mailing a copy by first-class mail to such address. The plaintiff shall file an affidavit with the court showing that an attempt was made to serve the summons in the manner provided in sections 25-505.01 to 25-516.01, the reasons why such service was unsuccessful, and that service was made by posting the summons at the last-known address of the defendant and mailing a copy by first-class mail to the defendant.

Sec. 5. That original sections 76-1401, 76-1440, and 76-1442, Reissue Revised Statutes of Nebraska, 1943, are repealed.