

LEGISLATIVE BILL 52

Approved by the Governor February 14, 1995

Introduced by Kristensen, 37

AN ACT relating to the Uniform Residential Landlord and Tenant Act; to amend section 76-1446, Reissue Revised Statutes of Nebraska, and section 76-1442, Revised Statutes Supplement, 1994; to provide for trial only by the court without a jury; to harmonize provisions; and to repeal the original sections.

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

Section 1. Section 76-1442, Revised Statutes Supplement, 1994, is amended to read:

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 issuance and shall be returnable within five days, excluding Saturdays, Sundays, and holidays, from the date of 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 76-1442.01. ~~If a plaintiff serves the summons in the manner provided in section 76-1442.01, 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. 2. Section 76-1446, Reissue Revised Statutes of Nebraska, is amended to read:

76-1446. ~~Trial shall be had on the date or dates set as in all other cases, and if judgment be Trial of the action for possession shall be held not less than ten nor more than fourteen days after the issuance of the summons. The action shall be tried by the court without a jury. If the plaintiff serves the summons in the manner provided in section 76-1442.01, the action shall proceed as other actions for possession except that a money judgment shall not be granted for the plaintiff. If judgment is rendered against the defendant for the restitution of the premises, the court shall declare the forfeiture of the rental agreement, and shall, at the request of the plaintiff or his or her attorney, issue a writ of restitution, directing the constable or sheriff to restore possession of the premises to the plaintiff on a specified date not more than ten days after issuance of the writ of restitution.~~

Sec. 3. Original section 76-1446, Reissue Revised Statutes of Nebraska, and section 76-1442, Revised Statutes Supplement, 1994, are repealed.