

ONE HUNDRED SEVENTH LEGISLATURE - FIRST SESSION - 2021
COMMITTEE STATEMENT
LB320

Hearing Date: Wednesday January 27, 2021
Committee On: Judiciary
Introducer: Cavanaugh, J.
One Liner: Change provisions relating to violence on premises under the Uniform Residential Landlord and Tenant Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Brandt, DeBoer, Geist, Lathrop, McKinney, Morfeld, Pansing Brooks
Nay:		
Absent:		
Present Not Voting:	1	Senator Slama

Oral Testimony:

Proponents:

Senator John Cavanaugh
Julie Lubisi
Caitlin Cedfeldt
Jennifer Bullington
Katie Welsh
Ryan Sump
Gene Eckel

Representing:

Introducer
Survivors of Domestic Violence
Legal Aid of Nebraska
Self
Womens Center for Advancement
Self
Nebraska Association of Commercial Property Owners & Apartment Association of Nebraska

Opponents:

Representing:

Neutral:

Lynn Fisher
Doug Lane
Pierce Carpenter

Representing:

Great Place Properties
Self
Self

Submitted Written Testimony:

Proponents:

Michelle Weber
Elena Salisbury
Kelsey Waldron

Representing:

Nebraska Coalition to End Sexual & Domestic Violence
Self
Women's Fund of Omaha

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 320 allows a tenant, when the tenant or household member is a victim of domestic violence, to be released from a rental agreement under a process established in the bill.

Section by section

Section 1 Title: Adds section 4 of the bill to the Uniform Residential Landlord and Tenant Act.

Section 2 Definitions: Amends 76-1410 to add definitions for "Act of domestic violence", "Household member", and "Qualified third party"

Section 3 Amends 76-1431 to add a new subsection (5)(c) to provide an exception to a rental termination for illegal activity if the activity is an act of domestic violence.

Section 4 A new section that allows a tenant, when the tenant or household member is a victim of domestic violence, to be released from a rental agreement when a protective order or similar order has been obtained or a qualified third part has certified the domestic violence. The section provides for a notice to the landlord to terminate the rental agreement. The victim tenant is responsible for the current month rent. This does not release other tenants that are party to the rental agreement.

Section 5 Repeals original sections.

Explanation of amendments:

Committee Amendment AM450 amends portions of several bills addressing Landlord/Tenant issues. Portions of LBs 45, 46, 246, 268, 277, and 402 are included in the amendment. Below are summaries of the individual bills followed by a section by section summary of AM450 including the source of each section.

Summary of LB 320

LB 320 allows a tenant, when the tenant or household member is a victim of domestic violence, to be released from a rental agreement under a process established in the bill.

Section by section

Section 1 Title: Adds section 4 of the bill to the Uniform Residential Landlord and Tenant Act.

Section 2 Definitions: Amends 76-1410 to add definitions for "Act of domestic violence", "Household member", and "Qualified third party"

Section 3 Amends 76-1431 to add a new subsection (5)(c) to provide an exception to a rental termination for illegal activity if the activity is an act of domestic violence.

Section 4 A new section that allows a tenant, when the tenant or household member is a victim of domestic violence, to be released from a rental agreement when a protective order or similar order has been obtained or a qualified third part has certified the domestic violence. The section provides for a notice to the landlord to terminate the rental agreement. The victim tenant is responsible for the current month rent. This does not release other tenants that are party to the rental

agreement.

Section 5 Repeals original sections.

Summary of LB 45

LB 45 removes a section of current statute that prohibits continuances in a landlord/tenant court action in most circumstances and if granted requires a deposit of accrued rent.

Section by section

Section 1 Repeals section 76-1443. This section prohibited continuances in a landlord/tenant court action except for extraordinary cause, and if granted requiring a deposit of rents accrued.

Motion to include LB 45 as part of Committee Amendment to LB 320.

Vote Results 6-2-0-0

Voting Aye: Senators DeBoer, Geist, Lathrop, McKinney, Morfeld, & Pansing Brooks

Voting Nay: Senators Brandt & Slama

Testifiers at Public Hearing on January 27, 2021-

Proponents:

Senator Matt Hansen, Introducer

Ryan Sullivan, self

Robert Larsen, self

Erin Olsen, Legal Aid of Nebraska

Shayna Bartow, self

Ryan Sump, self

Written Testimony in Lieu of Appearance -

Kelsey Waldron, Women's Fund of Omaha

Kasey Ogle, Collective Impact Lincoln

Opponents:

Lynn Fisher, Real Estate Owner & Managers Association

Gene Eckel, Nebraska Association of Commercial Property Owners & Apartment Association of Nebraska

Douglas Lane, self

Ryan Norman-Hamilton, Lincoln Property Owners

Dennis Tierney, Metropolitan Omaha Property Owners Association

Cole Maranville, Maranville Properties LLC

Pierce Carpenter, self

Chinda David, self

Written Testimony in Lieu of Appearance -

Justin Brady, Nebraska Realtors Association

Dallas Jones, Lincoln Independent Business Association

Summary of LB 46

LB 46 removes an alternative method for serving a summons on a tenant for possession that allows the summons to be left at the tenant's last known address with a copy mailed to the tenant's last known address.

Section by Section

Section 1 Amends 76-1442 to remove language that allows for an alternative method of serving a summons when regular methods of service are unsuccessful.

Section 2 Amends 76-1446 to remove a reference to the alternative service method.

Section 3 Repeals original sections.

Section 4 Repeals 76-1442.01, which allows, when regular service is unsuccessful, service of a summons by leaving a copy at, and mailing to, the tenant's last known address.

Motion to include LB 46 as part of Committee Amendment to LB 320.

Vote Results 8-0-0-0

Voting Aye: Senators Brandt, DeBoer, Geist, Lathrop, McKinney, Morfeld, Pansing Brooks & Slama

Testifiers at Public Hearing on January 27, 2021-

Proponents:

Senator Matt Hansen, Introducer

Sam Baue, self

Abby Kuntz, Legal Aid of Nebraska

Ryan Sump, self

Opponents:

Lynn Fisher, Real Estate Owner & Managers Association

Gene Eckel, Nebraska Association of Commercial Property Owners & Apartment Association of Nebraska

Robert Amend, Douglas County Constable

Dennis Tierney, Metropolitan Omaha Property Owners Association

Scott Hoffman, Real Estate Owner & Managers Association

Brad Greiner, Lancaster County Constable

Written Testimony in Lieu of Appearance -

Justin Brady, Nebraska Realtors Association

Dallas Jones, Lincoln Independent Business Association

Summary of LB 246

LB 246 expands the exception to general forcible entry and detainer provisions to have the eviction process under the Mobile Home Landlord and Tenant Act (the Residential Landlord and Tenant Act is already excluded) control if applicable. The bill also adds a requirement that a possession action under the Residential Landlord and Tenant Act specify the statutory authority. Section three of the bill removes a reference to general forcible detainer sections in the Mobile Home Landlord and Tenant Act and instead references possession actions under the Residential Landlord and Tenant Act.

Section by Section

Section 1 Amends 25-21,219, the general forcible entry provisions, to add an exception for actions under the Mobile Home Landlord and Tenant Act.

Section 2 Amends 76-1441, a section describing the restitution and possession process under the Residential Landlord and Tenant Act, to add a requirement that the complaint contain the statutory authority for the complaint.

Section 3 Amends 76-14,101, a section allowing damages and possession under the Mobile Home Landlord and Tenant Act, by removing a reference to the general forcible entry provisions (25-21,219) and instead referencing the process under the Residential Landlord and Tenant Act.

Section 4 Repeals original sections.

Motion to include LB 246 as part of Committee Amendment to LB 320

Vote Results 8-0-0-0

Voting Aye: Senators Brandt, DeBoer, Geist, Lathrop, McKinney, Morfeld, Pansing Brooks & Slama

Testifiers at Public Hearing on January 27, 2021-

Proponents:

Senator Wendy DeBoer, Introducer

Ryan Sullivan, self

Scott Mertz, Legal Aid of Nebraska

Written Testimony in Lieu of Appearance -

Isabel Salas, South of Downtown Community Development Organization & Collective Impact Lincoln

Neutral:

Lynn Fisher, Great Place Properties

Summary of LB 268

LB 268 adds requirements to a landlord's ability to enter a tenant's dwelling by requiring the landlord to provide individual notices that include the reason for access and the anticipated time of access. The measure also requires consent from at least one tenant prior to access.

Section by section

Section 1 Amends 76-1423 regarding a landlord's ability to enter a tenant's dwelling by requiring written notice (24 hours in advance) that is provided to each unit with the purpose for the access, and an anticipated timeframe. In addition, consent from at least one tenant is required.

Section 2 Repeals original section.

Motion to include LB 268 as part of Committee Amendment to LB 320

Vote Results 7-1-0-0

Voting Aye: Senators Brandt, DeBoer, Geist, Lathrop, McKinney, Morfeld, Pansing Brooks

Voting Nay: Senator Slama

Testifiers at Public Hearing on January 27, 2021-

Proponents:

Senator John McCollister, Introducer

Erin Olsen, Legal Aid of Nebraska

John Schmidt, self
Ryan Sullivan, self

Written Testimony in Lieu of Appearance -
Isabel Salas, South of Downtown Community Development Organization & Collective Impact Lincoln

Opponents:
Gene Eckel, Nebraska Association of Commercial Property Owners & Apartment Association of Nebraska
Lynn Fisher, Real Estate Owner & Managers Association
Douglas Lane, self
Dennis Tierney, Metropolitan Omaha Property Owners Association
Pierce Carpenter, self
Scott Hoffman, Real Estate Owner & Managers Association

Written Testimony in Lieu of Appearance -
Justin Brady, Nebraska Realtors Association

Summary of LB 277

LB 277 amends the Mobile Home Landlord and Tenant Act to require landlords to provide the balance due on a security deposit within 14 days after termination to an address provided by the tenant or their last known address. It also establishes liquidated damages if the landlord fails to provide the balance of the security deposit. Damages related to the removal of the tenant due to a governmental body order because the premises are not fit for habitation are not the responsibility of the tenant.

Section by section

Section 1 Amends section 76-1485 which addresses security deposits on mobile home rental property. The bill adds language requiring the landlord to mail the balance of the security deposit within 14 days after termination to the address provided by the tenant or to the last known address if none is provided. A new subsection (2) provides that the tenant is not liable if tenant is removed by governmental entity due to inhabitable conditions

Section 2 Amends 76-1486 addressing rental deposits by removing language allowing the landlord to retain the deposit for tenant's failure to provide mailing address.

Section 3 Amends 76-1489 to provide for damages including court costs and attorney's fees if the landlord does not return the deposit and liquidated damages of one month's rent if the landlord willfully fails to provide the balance of the security deposit.

Section 4 Amends 76-14,101 to allow rent to be paid within seven days (current is five days) after notice to avoid termination.

Section 5 Repeals original section

Motion to include LB 277 as part of Committee Amendment to LB 320

Vote Results 8-0-0

Voting Aye: Senators Brandt, DeBoer, Geist, Lathrop, McKinney, Morfeld, Pansing Brooks & Slama

Testifiers at Public Hearing on January 27, 2021-

Proponents:

Senator Megan Hunt, Introducer
Ryan Sullivan, self
Scott Mertz, Legal Aid of Nebraska

Written Testimony in Lieu of Appearance-

Kasey Ogle, Collective Impact Lincoln

Opponents:

Pierce Carpenter, self

Summary of LB 402

LB 402 would require the Supreme Court to submit a report every six months relating to eviction proceedings. The report is to contain: number of eviction proceedings initiated, number of landlords and tenants represented by attorneys, number of evictions granted (or by default) and the number of evictions granted by the statutory authority claimed. The report requires the data be provided by county.

Section by section

Section 1 New language that beginning in 2022, requires the Supreme Court to provide a report to the Legislature every six months (January 15 and July 15) containing numbers on eviction proceedings, broken down by county. The report will include: the number of eviction proceedings filed, the number of landlords and tenants represented by counsel, the number of proceedings granting eviction, and the statutory authority claimed for those proceedings granting possession or the premises. Subsection (2) includes definitions: Eviction proceeding (includes both the Uniform Residential Landlord Tenant Act and the Mobile Home Landlord and Tenant Act); Landlord; Tenant; Residential tenancy. Subsection (e) provides that when a definition is found in both Acts, the definition relevant to the situation applies.

Motion to include LB 402 as part of Committee Amendment to LB 320

Vote Results 8-0-0-0

Voting Aye: Senators Brandt, DeBoer, Geist, Lathrop, McKinney, Morfeld, Pansing Brooks & Slama

Testifiers at Public Hearing on February 4, 2021-

Proponents:

Senator Wendy DeBoer, Introducer
Tessa Lengeling, self
Scott Mertz, Legal Aid of Nebraska

Written Testimony in Lieu of Appearance-

Kelsey Waldron, Women's Fund of Omaha

Section by section Summary of AM450 to LB 320 (Source indicated in parentheses)

Section 1 Amends 25-21,219, the general forcible entry provisions, to add an exception for actions under the Mobile Home Landlord and Tenant Act. (from LB 246, sec. 1)

Section 2 Title: Adds section 6 of the amendment to the Uniform Residential Landlord and Tenant Act. (from LB 320, sec. 1)

Section 3 Definitions: Amends 76-1410 to add definitions for "Act of domestic violence", "Household member", and "Qualified third party" (from LB 320, sec. 2)

Section 4 Amends 76-1423 regarding a landlord's ability to enter a tenant's dwelling by requiring written notice (24 hours in advance) that is provided to each individual unit with the purpose for the access, and an anticipated timeframe. (from LB 268, sec. 1 --- strikes the green copy language requiring consent from tenant)

Section 5 Amends 76-1431 to add a new subsection (5)(a)(iii) to provide an exception to a rental termination for illegal activity if the activity is an act of domestic violence. Also adds a new subsection 5(b) that clarifies that the subsection does not apply to the perpetrator of the domestic violence. (from LB 320 sec. 3)

Section 6 A new section that allows a tenant, when the tenant or household member is a victim of domestic violence, to be released from a rental agreement when a protective order or similar order has been obtained or a qualified third part has certified the domestic violence. The section provides for a notice to the landlord to terminate the rental agreement. The victim tenant is responsible for the current month rent. This does not release other tenants that are party to the rental agreement. Also adds a new subsection (6) that clarifies that a perpetrator of domestic violence may be released from the rental agreement. (from LB 320 sec. 4)

Section 7 Amends 76-1441, a section describing the restitution and possession process under the Residential Landlord and Tenant Act, to add a requirement that the complaint contain the statutory authority for the complaint. (from LB 246 sec. 1)

Section 8 Amends section 76-1442.01 to allow service of summons by posting a copy on the front door of the dwelling unit and mailing to the last known address. (in lieu of LB 46, sec.'s 1,2, and 4).

Section 9 Amends section 76-1443 to allow either party a continuance for good cause but subsequent continuances must be for extraordinary cause. Also removes deposit requirement. (in lieu of LB 45 sec. 1)

Section 10 Amends section 76-1485 which addresses security deposits on mobile home rental property. The bill adds language requiring the landlord to mail the balance of the security deposit within 14 days after termination to the address provided by the tenant or to the last known address if none is provided. A new subsection (2) provides that the tenant is not liable if tenant is removed by governmental entity due to inhabitable conditions. The amendment also changes the disposition to Unclaimed Property after one year to mirror changes to the Residential Landlord Tenant Act made by LB 532 (on Final Reading). (from LB 277 sec. 1)

Section 11 Amends 76-1486 addressing rental deposits by removing language allowing the landlord to retain the deposit for tenant's failure to provide mailing address. (from LB 277 sec. 2)

Section 12 Amends 76-1489 to provide for damages including court costs and attorney's fees if the landlord does not return the deposit and liquidated damages of one month's rent if the landlord willfully fails to provide the balance of the security deposit. (from LB 277 sec. 3)

Section 13 Amends 76-14,101 to allow rent to be paid within seven days (current is five days) after notice to avoid termination. (from LB 277 sec. 4 and LB 246 sec. 3)

Section 14 New language that beginning in 2022, requires the Supreme Court to provide a report to the Legislature every six months (January 15 and July 15) containing numbers on eviction proceedings, broken down by county. The report will include: the number of eviction proceedings filed, the number of landlords and tenants represented by counsel, the number of proceedings granting eviction, and the statutory authority claimed for those proceedings granting possession or the

premises. Subsection (2) includes definitions: Eviction proceeding (includes both the Uniform Residential Landlord Tenant Act and the Mobile Home Landlord and Tenant Act); Landlord; Tenant; Residential tenancy. Subsection (e) provides that when a definition is found in both Acts, the definition relevant to the situation applies. (from LB 402)

Section 15 Repeals original sections

Steve Lathrop, Chairperson