

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 221**

Introduced by Harr, 8.

Read first time January 13, 2015

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to landlord and tenants; to amend sections
- 2 69-2303, 76-1414, 76-1441, and 76-1446, Reissue Revised Statutes of
- 3 Nebraska; to provide for disposition of personal property upon the
- 4 death of a tenant; to harmonize provisions; and to repeal the
- 5 original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 69-2303, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 69-2303 (1) Except as otherwise provided in subsection (5) of  
4 section 76-1414, when ~~when~~ personal property remains on the premises  
5 after a tenancy has terminated or expired and the premises have been  
6 vacated by the tenant, the landlord shall give written notice as provided  
7 in subsection (2) of this section to such tenant and to any other person  
8 the landlord reasonably believes to be the owner of the property.

9 (2)(a) The notice required by subsection (1) of this section shall  
10 describe the property in a manner reasonably adequate to permit the owner  
11 of the property to identify it. The notice may describe all or a portion  
12 of the property, but the limitation of liability provided by section  
13 69-2309 shall not protect the landlord from any liability arising from  
14 the disposition of property not described in the notice, except that a  
15 trunk, valise, box, or other container which is locked, fastened, or tied  
16 in a manner which deters immediate access to its contents may be  
17 described as such without describing its contents.

18 (b) The notice shall state that reasonable costs of storage may be  
19 charged before the property is returned, the location where the property  
20 may be claimed, and the date on or before which such property must be  
21 claimed.

22 (c) The date specified in the notice shall be a date not less than  
23 seven days after the notice is personally delivered or, if mailed, not  
24 less than fourteen days after the notice is deposited in the mail.

25 (d) The notice shall be given within six months of the date of  
26 expiration of the lease of the property or the date of discovery of the  
27 abandonment, whichever is later.

28 (3) The notice shall be personally delivered or sent by first-class  
29 mail, postage prepaid, to the person to be notified at his or her last-  
30 known address and, if there is reason to believe that the notice sent to  
31 that address will not be received by him or her, also delivered or sent

1 to such other address, if any, known to the landlord at which such person  
2 may reasonably be expected to receive the notice.

3 Sec. 2. Section 76-1414, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5 76-1414 (1) The landlord and tenant may include in a rental  
6 agreement terms and conditions not prohibited by the Uniform Residential  
7 Landlord and Tenant Act or other rule of law including rent, term of the  
8 agreement, and other provisions governing the rights and obligations of  
9 the parties.

10 (2) In absence of agreement, the tenant shall pay as rent the fair  
11 rental value for the use and occupancy of the dwelling unit.

12 (3) Rent shall be payable without demand or notice at the time and  
13 place agreed upon by the parties. Unless otherwise agreed, rent is  
14 payable at the dwelling unit and periodic rent is payable at the  
15 beginning of any term of one month or less and otherwise in equal monthly  
16 installments at the beginning of each month. Unless otherwise agreed,  
17 rent shall be uniformly apportionable from day to day.

18 (4) Unless the rental agreement fixes a definite term, the tenancy  
19 shall be week to week in case of a roomer who pays weekly rent, and in  
20 all other cases month to month.

21 (5) Upon request by a landlord, the tenant shall provide and  
22 routinely update the name and contact information of a person who is  
23 authorized by the tenant to enter the tenant's dwelling unit to retrieve  
24 and store the tenant's personal property if the tenant dies. Upon the  
25 death of a tenant, the landlord shall make a reasonable attempt to  
26 contact the authorized person, if any, within ten days after the death.  
27 The authorized person shall have ten days after being contacted by the  
28 landlord to notify the landlord that he or she will claim the tenant's  
29 property, and he or she will then have twenty days after such  
30 notification to remove the tenant's personal property from the dwelling  
31 unit or obtain the personal property from where it is being stored. Upon

1 presentation of a valid government-issued identification confirming the  
2 identity of the authorized person, the landlord shall grant the  
3 authorized person reasonable access to the rented dwelling unit or to  
4 where the personal property is being stored if not in the dwelling unit.  
5 If the tenant's personal property is not entirely removed from the  
6 dwelling unit by an authorized person, the landlord may dispose of the  
7 remaining property as prescribed in the Disposition of Personal Property  
8 Landlord and Tenant Act. If the landlord allows an authorized person to  
9 receive the tenant's personal property as provided by this subsection,  
10 the landlord has no further liability to the tenant, the tenant's estate,  
11 or the tenant's heirs for lost, damaged, or stolen personal property. If  
12 the landlord is unable to contact the authorized person at the address  
13 and telephone number provided by the tenant, or the authorized person  
14 fails to respond to the landlord's notification within ten days after  
15 contact is made, the landlord may dispose of the tenant's personal  
16 property as prescribed in the Disposition of Personal Property Landlord  
17 and Tenant Act.

18       Sec. 3. Section 76-1441, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20       76-1441 The person seeking possession shall file a complaint for  
21 restitution with the clerk of the district or county court. The complaint  
22 shall contain (a) the facts, with particularity, on which he or she seeks  
23 to recover; (b) a reasonably accurate description of the premises; and  
24 (c) the requisite compliance with the notice provisions of the Uniform  
25 Residential Landlord and Tenant Act. The complaint may notify the tenant  
26 that personal property remains on the premises and that it may be  
27 disposed of pursuant to section 69-2308 or subsection (5) of section  
28 76-1414. The complaint may also contain other causes of action relating  
29 to the tenancy, but such causes of action shall be answered and tried  
30 separately, if requested by either party in writing.

31       Sec. 4. Section 76-1446, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2           76-1446 Trial of the action for possession shall be held not less  
3 than ten nor more than fourteen days after the issuance of the summons.  
4 The action shall be tried by the court without a jury. If the plaintiff  
5 serves the summons in the manner provided in section 76-1442.01, the  
6 action shall proceed as other actions for possession except that a money  
7 judgment shall not be granted for the plaintiff. If judgment is rendered  
8 against the defendant for the restitution of the premises, the court  
9 shall declare the forfeiture of the rental agreement, and shall, at the  
10 request of the plaintiff or his or her attorney, issue a writ of  
11 restitution, directing the constable or sheriff to restore possession of  
12 the premises to the plaintiff on a specified date not more than ten days  
13 after issuance of the writ of restitution. The plaintiff shall comply  
14 with the Disposition of Personal Property Landlord and Tenant Act and  
15 subsection (5) of section 76-1414 in the removal of personal property  
16 remaining on the premises at the time possession of the premises is  
17 restored.

18           Sec. 5. Original sections 69-2303, 76-1414, 76-1441, and 76-1446,  
19 Reissue Revised Statutes of Nebraska, are repealed.