

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 128

Introduced by McCollister, 20.

Read first time January 07, 2021

Committee:

- 1 A BILL FOR AN ACT relating to civil actions; to adopt the Residential
- 2 Tenant Clean Slate Act; and to provide an operative date.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and may be
2 cited as the Residential Tenant Clean Slate Act.

3 Sec. 2. For purposes of the Residential Tenant Clean Slate Act:

4 (1) Clean slate relief means the sealing of records under section 5
5 of this act;

6 (2) Eviction proceeding means an action involving a claim for
7 forcible entry and detainer involving a residential tenancy under
8 sections 25-21,219 to 25-21,235, the Uniform Residential Landlord and
9 Tenant Act, or the Mobile Home Landlord and Tenant Act;

10 (3) Landlord includes a landlord as defined in section 76-1410 and a
11 landlord as defined in section 76-1462;

12 (4) Residential tenancy means a tenancy subject to the Uniform
13 Residential Landlord and Tenant Act or the Mobile Home Landlord and
14 Tenant Act or any other residential tenancy;

15 (5) Tenant means a tenant or former tenant of a residential tenancy;

16 (6) Trial court means the trial court that presided over an eviction
17 proceeding; and

18 (7) When reference in this section is made to a definition found in
19 both the Uniform Residential Landlord and Tenant Act and the Mobile Home
20 Landlord and Tenant Act, the definition relevant to the type of tenant at
21 issue applies for purposes of the Residential Tenant Clean Slate Act.

22 Sec. 3. At the conclusion of any eviction proceeding, the trial
23 court shall issue an order immediately granting clean slate relief to the
24 tenant if:

25 (1) A writ of restitution is not issued; or

26 (2) The court enters an order dismissing such eviction proceeding
27 against such tenant.

28 Sec. 4. (1) A tenant may petition the trial court for clean slate
29 relief for an eviction proceeding:

30 (a) At any time when the proceeding meets the requirements for clean
31 slate relief under section 3 of this act, but the record remains public;

1 or

2 (b) That does not meet the requirements for clean slate relief under
3 section 3 of this act when three years have passed since issuance of a
4 writ of restitution or other entry of final judgment against the tenant.

5 (2) A petition under this section shall be filed in the trial court.
6 Notice shall be served upon all other persons who were parties to the
7 eviction proceeding. Within thirty days of receipt of notice, any such
8 party may file objections to the petition. If no objection is timely
9 filed, the trial court shall grant the petition without further hearing
10 if the requirements of this section have been met.

11 (3) If an objection is filed, a hearing shall be held and the
12 objecting party shall have the burden of establishing why clean slate
13 relief should not be granted.

14 (4) Upon granting a petition under this section, the court shall
15 issue an order for clean slate relief under section 5 of this act.

16 (5) An order granting or denying a petition under this section is a
17 final, appealable order for purposes of section 25-1902.

18 (6) This section applies to all eviction proceedings, without regard
19 to the date of filing or conclusion of the eviction proceeding, including
20 those occurring prior to the operative date of this act.

21 Sec. 5. (1) In issuing an order for clean slate relief, the court
22 shall:

23 (a) Order that all records relating to the eviction proceeding are
24 not part of the public record and shall not be disseminated; and

25 (b) If the case was transferred from one court to another, send
26 notice of the order to seal the record to the transferring court.

27 (2) Following entry of a court order granting clean slate relief, a
28 court shall:

29 (a) Respond to a public inquiry in the manner as if there had not
30 been an eviction proceeding involving the tenant; and

31 (b) Not disseminate any information regarding such eviction

1 proceeding.

2 (3) In any application for housing, a lease, employment, bonding,
3 license, education, or other right or privilege, any appearance as a
4 witness, or any other public inquiry, a tenant shall not be questioned
5 with respect to any eviction proceeding for which the record is sealed
6 under this section. If an inquiry is made in violation of this
7 subsection, the tenant may respond as if the action never occurred.

8 (4) In any application for housing, a landlord shall not consider a
9 tenant's prior eviction if clean slate relief has been granted for such
10 eviction. There shall be a rebuttable presumption that a rejected
11 application for housing against a tenant who had clean slate relief
12 granted under this section was due to the landlord's knowledge of
13 information in the sealed record. This presumption may be rebutted by
14 evidence. The presumption shall be deemed rebutted as a matter of law if
15 the landlord shows by a preponderance of the evidence that the landlord
16 did not know of the eviction.

17 Sec. 6. The State Court Administrator may adopt and promulgate
18 rules and regulations as necessary to carry out the Residential Tenant
19 Clean Slate Act.

20 Sec. 7. This act becomes operative on January 1, 2022.