

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 187

Introduced by Cavanaugh, J., 9; McKinney, 11.

Read first time January 09, 2023

Committee:

- 1 A BILL FOR AN ACT relating to civil actions; to amend sections 25-21,223,
- 2 76-1442, and 76-1450, Reissue Revised Statutes of Nebraska; to
- 3 require appointment of counsel at county expense in eviction
- 4 proceedings in certain counties; to define terms; to provide a duty
- 5 for the Supreme Court; to require notice of the right to counsel in
- 6 summonses as prescribed; to harmonize provisions; and to repeal the
- 7 original sections.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) For purposes of this section:

2 (a) Covered county means a county containing a city of the
3 metropolitan class or a city of the primary class;

4 (b) Eviction proceeding means an action, filed in a court of a
5 covered county, for:

6 (i) Forcible entry and detainer involving a residential tenancy
7 under sections 25-21,219 to 25-21,235; or

8 (ii) Possession of any premises subject to the Uniform Residential
9 Landlord and Tenant Act or the Mobile Home Landlord and Tenant Act;

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

12 (d) 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, however created, between a
15 landlord and a tenant for a dwelling unit;

16 (e) Tenant means a current or former occupant of a dwelling unit
17 pursuant to a residential tenancy; and

18 (f) 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 this section.

22 (2) At the commencement of any eviction proceeding, the court shall
23 appoint counsel for the tenant unless the tenant is already represented
24 by counsel. The tenant may waive court-appointed counsel or retain the
25 tenant's own counsel. The cost of any court-appointed counsel shall be
26 paid by the county.

27 (3) Counsel appointed pursuant to this section shall apply to the
28 court before which the proceedings were had for fees for services
29 performed. The court, upon hearing the application, shall fix reasonable
30 fees. The county board of the county where the proceedings were had shall
31 allow the account, bill, or claim presented by any attorney for such

1 services in the amount determined by the court. No such account, bill, or
2 claim shall be allowed by the county board until the amount has been
3 determined by the court.

4 (4) By July 1, 2024, the Supreme Court shall provide guidelines
5 setting forth standards for all attorneys appointed pursuant to this
6 section. The Supreme Court shall periodically review and maintain such
7 standards.

8 Sec. 2. Section 25-21,223, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 25-21,223 (1) The summons shall be issued and directed with a copy
11 of the complaint attached to the summons, shall state the cause of the
12 complaint, the time and place of trial of the action for possession, and
13 the answer day for other causes of action, and shall notify the defendant
14 that if he or she fails to appear, judgment shall be entered against him
15 or her.

16 (2) If the complaint is for an eviction proceeding as defined in
17 section 1 of this act, the summons shall also contain a statement in
18 substantially the following form: "As a residential tenant, you have the
19 right to representation by counsel in eviction proceedings. Counsel will
20 be appointed to represent you, at no cost to you, at the beginning of
21 eviction proceedings."

22 (3) The summons may be served and returned as provided in sections
23 25-505.01 to 25-516.01, except that the summons shall be served within
24 three days, excluding nonjudicial days, from the date of its issuance and
25 shall be returnable within five days, excluding nonjudicial days, from
26 the date of its issuance. If service cannot be made with reasonable
27 diligence under such sections, service may be made by any person by
28 leaving a copy of the summons at the detained premises and mailing a copy
29 by first-class mail to the defendant's last-known address. The person
30 making the service shall file with the court an affidavit stating with
31 particularity the manner in which he or she made the service and, if

1 service was not made as provided in sections 25-505.01 to 25-516.01, the
2 reasons why service under such sections was unsuccessful.

3 (4) Trial of the action for possession shall be held not less than
4 ten nor more than fourteen days after the date of issuance of the
5 summons.

6 Sec. 3. Section 76-1442, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 76-1442 (1) The summons shall be issued and directed, with a copy
9 of the complaint attached thereto, and shall state the cause of the
10 complaint, the time and place of trial of the action for possession,
11 answer day for other causes of action, and notice that if the defendant
12 fails to appear judgment shall be entered against him or her.

13 (2) If the complaint is filed in a court of a covered county as
14 defined in section 1 of this act, the summons shall also contain a
15 statement in substantially the following form: "As a residential tenant,
16 you have the right to representation by counsel in eviction proceedings.
17 Counsel will be appointed to represent you, at no cost to you, at the
18 beginning of eviction proceedings."

19 (3) The summons may be served and returned as in other cases or by
20 any person, except that the summons shall be served within three days,
21 excluding nonjudicial days, from the date of issuance and shall be
22 returnable within five days, excluding nonjudicial days, from the date of
23 issuance. The person making the service shall file with the court an
24 affidavit stating with particularity the manner in which he or she made
25 the service. If diligent efforts have been made to serve the summons in
26 the manner provided in sections 25-505.01 to 25-516.01 but such efforts
27 were unsuccessful, the summons may be served in the manner provided in
28 section 76-1442.01.

29 Sec. 4. Section 76-1450, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 76-1450 Sections 76-1450 to 76-14,111 and section 5 of this act

1 shall be known and may be cited as the Mobile Home Landlord and Tenant
2 Act.

3 Sec. 5. In any action for forcible entry and detainer or for
4 possession under the Mobile Home Landlord and Tenant Act which is filed
5 in a court of a covered county as defined in section 1 of this act, the
6 summons served upon the defendant shall contain a statement in
7 substantially the following form: "As a residential tenant, you have the
8 right to representation by counsel in eviction proceedings. Counsel will
9 be appointed to represent you, at no cost to you, at the beginning of
10 eviction proceedings."

11 Sec. 6. Original sections 25-21,223, 76-1442, and 76-1450, Reissue
12 Revised Statutes of Nebraska, are repealed.