

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 435

Introduced by Hansen, M., 26.

Read first time January 18, 2019

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to the Uniform Residential Landlord and Tenant
- 2 Act; to amend section 76-1439, Reissue Revised Statutes of Nebraska;
- 3 to change provisions relating to retaliatory conduct by a landlord;
- 4 and to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 76-1439, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 76-1439 (1) Except as provided in this section, a landlord may not
4 retaliate by increasing rent or decreasing services or by bringing or
5 threatening to bring an action for possession after:

6 (a) The tenant has complained to a government agency charged with
7 responsibility for enforcement of a minimum building or housing code of a
8 violation applicable to the premises materially affecting health and
9 safety;~~or~~

10 (b) The tenant has organized or become a member of a tenants' union
11 or similar organization; ~~or~~

12 (c) The tenant has made a good faith complaint to the landlord of a
13 violation of the housing code or noncompliance with the lease agreement;
14 or

15 (d) The tenant has exercised or attempted to exercise a right or
16 remedy under the lease agreement or law.

17 (2) If the landlord acts in violation of subsection (1) of this
18 section, the tenant is entitled to the remedies provided in section
19 76-1430 and has a defense in action against him or her for possession. In
20 an action by or against the tenant, evidence of a complaint by the tenant
21 within six months prior to the alleged act of retaliation creates a
22 rebuttable presumption that the landlord's conduct was retaliatory. The
23 presumption does not arise if the tenant made the complaint after notice
24 of a proposed rental increase or diminution of services. Presumption
25 under this subsection means that the trier of fact must find the
26 existence of a fact presumed unless and until evidence is introduced
27 which would support a finding of nonexistence of the fact. Nothing in
28 this section shall be construed as prohibiting reasonable rent increases
29 or changes in services notwithstanding the occurrence of acts specified
30 in subsection (1) of this section.

31 (3) Notwithstanding subsections (1) and (2) of this section, a

1 landlord may bring an action for possession if:

2 (a) The violation of the applicable minimum building or housing code
3 was caused primarily by lack of reasonable care by the tenant or other
4 person in his household or upon the premises with his consent;

5 (b) The tenant is in default in rent; or

6 (c) Compliance with the applicable minimum building or housing code
7 requires alteration, remodeling, or demolition which would effectively
8 deprive the tenant of use of the dwelling unit.

9 The maintenance of the action does not release the landlord from
10 liability under subsection (2) of section 76-1425.

11 Sec. 2. Original section 76-1439, Reissue Revised Statutes of
12 Nebraska, is repealed.