

LEGISLATIVE BILL 899

Approved by the Governor March 15, 1994

Introduced by Lindsay, 9

AN ACT relating to civil procedure; to amend section 25-1917, Reissue Revised Statutes of Nebraska, 1943, and section 25-1916, Revised Statutes Supplement, 1992; to allow United States Government bonds to be posted and operate as a supersedeas; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 25-1916, Revised Statutes Supplement, 1992, be amended to read as follows:

25-1916. No appeal in any case shall operate as a supersedeas unless the appellant or appellants within thirty days after the rendition of such judgment or decree or the making of such final order execute to the adverse party a bond with one or more sureties, make a deposit of United States Government bonds with the clerk, or in lieu thereof make a cash deposit with the clerk for the benefit of the adverse party as follows:

(1) When the judgment, decree, or final order appealed from directs the payment of money, the bond or United States Government bonds shall be in the amount of the judgment, decree, or final order and the taxable court costs in the district court, plus the estimated amount of interest that will accrue on the judgment, decree, or final order between its date and the final determination of the cause in the Court of Appeals or Supreme Court and the estimated amount of the costs of appeal, such estimated interest to accrue and estimated court costs to be determined by the trial court, such supersedeas bond, United States Government bond, or cash deposit to be conditioned that the appellant or appellants will prosecute such appeal without delay and pay all condemnation money and costs which may be found against him, her, or them on the final determination of the cause in the Court of Appeals or Supreme Court, except that when a cash deposit is made, United States Government bonds are deposited, or a bond is provided, written by a corporate surety company authorized to do business within the State of Nebraska, which is approved by the trial court in which the judgment was rendered and filed in the court, the general lien of the judgment shall be dissolved;

(2) When the judgment, decree, or final order directs the execution of a conveyance or other instrument, the bond, deposit of United States Government bonds, or cash deposit shall be in such sum as shall be prescribed by the district court, or judge thereof in vacation, conditioned that the appellant or appellants will prosecute such appeal without delay and will abide and perform the judgment or decree rendered or final order which shall be made by the Court of Appeals or Supreme Court in the cause;

(3) When the judgment, decree, or order directs the sale or delivery of possession of real estate, the bond, deposit of United States Government bonds, or cash deposit shall be in such sum as the court, or judge thereof in vacation, shall prescribe, conditioned that the appellant or appellants will prosecute such appeal without delay, will not during the pendency of such appeal commit or suffer to be committed any waste upon such real estate, and will pay all costs and all rents or damages to such real estate which may accrue during the pendency of such appeal and until the appellee is legally restored thereto; and

(4) When the judgment, decree, or final order dissolves or modifies any order of injunction which has been or hereafter may be granted, the supersedeas bond, deposit of United States Government bonds, or cash deposit shall be in such reasonable sum as the court or judge thereof in vacation shall prescribe, conditioned that the appellant or appellants will prosecute such appeal without delay and will pay all costs which may be found against him, her, or them on the final determination of the cause in the Court of Appeals or Supreme Court, and such supersedeas bond, deposit of United States Government bonds, or cash deposit shall stay the doing of the act or acts sought to be restrained by the suit and continue such injunction in force until the case is heard and finally determined in the Court of Appeals or Supreme Court. The undertaking given upon the allowance of the injunction shall be and remain in effect until it is finally decided whether or not the injunction ought to have been granted.

Sec. 2. That section 25-1917, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-1917. Instead of the undertaking prescribed in the second

subdivision (2) of section 25-1916, the conveyance or other instrument may be executed and deposited with the clerk of the court in which the judgment was rendered or order made, to abide the judgment of the appellate court.

Sec. 3. That original section 25-1917, Reissue Revised Statutes of Nebraska, 1943, and section 25-1916, Revised Statutes Supplement, 1992, are repealed.