

January 11, 1980

LB 306

exists in a piece of property. Senator Beutler, I would ask you at this time a couple of questions that I didn't have time on your amendment. Let's say that this bill would pass and so that we would keep things uncomplicated with homestead exemptions and so forth, let's say that we have a piece of property worth \$100,000 and the 50% would be \$50,000. Now the husband obtains a loan and dies and the wife did not sign. Under this law, if it passes, would the spouse be made, the unsigner, be made liable on that note for up to 50% of the property held to be used to retire that debt?

SENATOR BEUTLER: Is the property held in joint tenancy with right of survivorship?

SENATOR CHAMBERS: Yes, all of my examples will be joint tenancy with right of survivorship.

SENATOR BEUTLER: Okay, and then would you give it to me again then, please?

SENATOR CHAMBERS: Okay, the husband makes a loan and dies. The property is held...

SENATOR BEUTLER: The husband makes a loan or takes a loan?

SENATOR CHAMBERS: Takes a loan and dies. Then the spouse, the property held, 50% of that is available for the banker to go after to get settlement of the loan. Is that correct?

SENATOR BEUTLER: Did the person who died contribute up to 50% of it?

SENATOR CHAMBERS: Let's say yes so that we can get the example.

SENATOR BEUTLER: Okay, then the answer is yes.

SENATOR CHAMBERS: All right, now can the banker choose to foreclose or seek a personal judgment or is he bound to only foreclose on the property?

SENATOR BEUTLER: If I understand what you are asking correctly, he cannot foreclose on the property, no.

SENATOR CHAMBERS: What can he do?

SENATOR BEUTLER: Are they talking about under present law?

SENATOR CHAMBERS: With this law that you have got, if it passes, how would the banker get his loan satisfied out of that property?