

March 1, 1991

LB 205, 221

wishing to debate this motion, we will proceed to vote on the advancement of LB 205. All those in favor please vote aye, opposed nay. Have you all voted? Please record, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Madam President, on the advancement of 205.

PRESIDENT MOUL: LB 205 is advanced. LB 221.

CLERK: Madam President, LB 221 introduced by Senators Landis and Kristensen. (Read title.) Introduced on January 14, referred to Banking, advanced to General File. I have no amendments to the bill.

PRESIDENT MOUL: Senator Landis.

SENATOR LANDIS: Thank you, Madam President. Senator Kristensen and I introduced this measure and actually it was on behalf of the Nebraska Bankers Association. It changes the Uniform Commercial Code. We have a provision in our statutes right now that requires reasonable notice to a secured party when that debtor is having their collateral sold at a public sale and then after the public sale, as you know, if you don't get enough money from the public sale, you still have a debt that's due and owing. So you can then go in and seize property and continue to sell property until you make up the debt. Well, the chance for a deficiency judgment, this right to go get the amount of money after you've had the public sale, is based on the Uniform Commercial Code upon reasonable notice. Now, our Supreme Court has in a course of conduct over the...that stretches over last five years, has started adding content requirements to the statutes for what constitutes reasonable notice and they've made it sort of a moving target. This measure is basically to nail down what has been a moving target, a set of opinions and interpretations unique to Nebraska that no other state is following. And basically is what it says is this, the debtor receives time, place and notice that in the event the public sale does not provide enough money that they may continue to be liable for additional amounts of money and that that will go only to the debtor but also to the guarantor in most situations when there is a secured transaction and that secured transaction proves that the debtor has not honored their obligation and that there is a foreclosure on the collateral for the purposes of public sale. I would move for the adoption of and the advancement of this measure. Thank you.