

LEGISLATIVE BILL 1

Approved by the Governor February 10, 1997

Introduced by Executive Board: Coordsen, 32, Chairperson

AN ACT relating to civil procedure; to amend sections 25-312 and 25-2001, Reissue Revised Statutes of Nebraska; to strike references to a statute that was repealed in 1983; to substitute referenced matter; and to repeal the original sections.

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

Section 1. Section 25-312, Reissue Revised Statutes of Nebraska, is amended to read:

25-312. (1) In all actions upon bills of exchange or promissory notes, or other written instruments, and in all actions wherein the subject matter is as described in section 25-517, subdivision (1) or (4) subsection (2) of this section, it shall be sufficient to designate any defendant by the name or part of name by which he or she is designated in the instrument upon which action is brought, or by which he or she appears of record to have some interest, right, title, estate in or lien upon the property involved in such action or proceeding, and for all the purposes of such action or proceeding such name shall be considered the real name of such defendant.

(2) This section applies to (a) actions brought under section 25-401, 25-402, or 25-403 and (b) actions which relate to, or the subject of which is, real or personal property in this state, if the defendant has or claims a lien or interest, actual or contingent, in such property, or the relief demanded consists wholly or partially in excluding the defendant from any interest in such property, and such defendant is a nonresident of the state or is a foreign corporation.

Sec. 2. Section 25-2001, Reissue Revised Statutes of Nebraska, is amended to read:

25-2001. A district court shall have power to vacate or modify its own judgments or orders after the term at which such judgments or orders were made (1) by granting a new trial of the cause within the time and in the manner prescribed in sections 25-1143 and 25-1145; (2) by a new trial granted in proceedings against defendants constructively summoned as provided in section 25-517 served by publication; (3) for mistake, neglect, or omission of the clerk, or irregularity in obtaining a judgment or order; (4) for fraud practiced by the successful party in obtaining the judgment or order; (5) for erroneous proceedings against an infant or person of unsound mind, where the condition of such defendant does not appear in the record, nor the error in the proceedings; (6) for the death of one of the parties before the judgment in the action; (7) for unavoidable casualty or misfortune, preventing the party from prosecuting or defending; (8) for errors in a judgment shown by an infant in twelve months after arriving at full age, as prescribed in section 25-1317; and (9) for taking judgments upon warrants of attorney for more than was due to the plaintiff, when the defendant was not summoned or otherwise legally notified of the time and place of taking such judgment.

Sec. 3. Original sections 25-312 and 25-2001, Reissue Revised Statutes of Nebraska, are repealed.