

LEGISLATIVE BILL 43

Approved by the Governor April 28, 1999

Introduced by Brashear, 4

AN ACT relating to courts; to amend sections 24-734, 25-1301, 25-1301.01, 25-1505 to 25-1507, 25-1914, 25-1916, 25-1920, 25-1931, 25-21,234, 25-2719, 25-2729, 25-2730, 29-2306, 31-433, 45-103.01, 45-103.02, 45-103.04, 46-568, 48-170, 48-185, 59-823, 76-1906, and 76-1912, Reissue Revised Statutes of Nebraska, and sections 25-705, 25-1912, and 30-1601, Revised Statutes Supplement, 1998; to change provisions relating to the rendition and date of entry of judgments, decrees, and final orders; to eliminate a duty of the Revisor of Statutes to publish practice notes; to harmonize provisions; to repeal the original sections; and to outright repeal section 25-543, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 24-734, Reissue Revised Statutes of Nebraska, is amended to read:

24-734. (1) A judge of any court of this state, established under the laws of the State of Nebraska, at chambers anywhere within the state, shall, in any case in which that judge is authorized to act, have power to exercise the powers conferred upon a judge and upon a court, and specifically to:

(a) Upon the stipulation of the parties to an action, hear and determine any matter, including the trial of an equity case or case at law in which a jury has been waived;

(b) Hear and determine pretrial and posttrial matters in civil cases not involving testimony of witnesses by oral examination;

(c) With the consent of the defendant, receive pleas of guilty and pass sentences in criminal cases;

(d) With the consent of the defendant, hear and determine pretrial and posttrial matters in criminal cases;

(e) Hear and determine cases brought by petition in error or appeal not involving testimony of witnesses by oral examination;

(f) Hear and determine any matter in juvenile cases with the consent of the guardian ad litem or attorney for the minor, the other parties to the proceedings, and the attorneys for those parties, if any;

(g) Without notice, make any order and perform any act which may lawfully be made or performed by him or her ex parte in open court in any action or proceeding which is on file in any district of this state; and

(h) Render any judgment or make any order at any location even though the action is pending in a county other than the place in which the judge is physically present.

(2) A judgment or order made pursuant to this section shall be deemed effective when ~~(a) the judgment is rendered~~ entered in accordance with the provisions of subsection ~~(2)~~ (3) of section 25-1301. ~~or (b) the order made has been pronounced accompanied by the making of a notation on the trial docket by the judge or made at the direction of the judge. Within three working days after the rendition of any civil judgment pursuant to this section, except judgments by default when service has been obtained by publication or an appearance of the defaulting party has been made, the clerk of the court shall send a postcard or notice by United States mail to each party whose address appears in the records of the action or to his or her attorney or attorneys of record and state the date of rendition of such judgment.~~

(3) The judge, in his or her discretion, may in any proceeding authorized by the provisions of this section not involving testimony of witnesses by oral examination, use telephonic methods to conduct such proceedings. The court may require the parties to make reimbursement for any telephone charges incurred.

(4) The enumeration of the ~~foregoing~~ powers in subsections (1), (2), and (3) of this section shall not be construed to deny the right of a party to trial by jury in the county in which the action was first filed if such right otherwise exists.

(5) Nothing in this section shall be construed to exempt proceedings under this section from the provisions of the Guidelines for Use by Nebraska Courts in Determining When and Under What Conditions a Hearing Before Such Court May Be Closed in Whole or in Part to the Public, adopted by the Supreme

Court of the State of Nebraska September 8, 1980, and any amendments to those provisions.

Sec. 2. Section 25-705, Revised Statutes Supplement, 1998, is amended to read:

25-705. (1) This section applies when ~~parties or causes of action are joined in accordance with section 25-311, 25-320, or 25-701~~ an action involves multiple parties or more than one cause of action.

(2) A plaintiff or defendant need not be interested in obtaining or defending against all the relief demanded. Judgment may be given for one or more of the plaintiffs according to their respective rights to relief and against one or more of the defendants according to their respective liabilities.

(3) The court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party against whom the party asserts no claim and who asserts no claim against the party and may order separate trials or make other orders to prevent delay or prejudice.

(4) Persons other than those made parties to the original action may be made parties to a counterclaim or cross-claim in accordance with section 25-311 or 25-320.

(5) Misjoinder of parties is not ground for dismissal of an action. Parties may be dropped or added by order of the court on motion of any party or of its own initiative at any stage of the action and on such terms as are just. Any claim against a party may be severed and proceeded with separately.

(6) When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third-party claim, or when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.

(7) When a court has ordered a final judgment under the conditions stated in subsection (6) of this section, the court may stay enforcement of that judgment until the entering of a subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment is entered.

Sec. 3. Section 25-1301, Reissue Revised Statutes of Nebraska, is amended to read:

25-1301. (1) A judgment is the final determination of the rights of the parties in an action.

(2) Rendition of a judgment is the act of the court, or a judge thereof, in ~~pronouncing judgment, accompanied by the making of a notation on the trial docket, or one made at the direction of the court or judge thereof, making and signing a written notation of the relief granted or denied in an action.~~

(3) The entry of a judgment, decree, or final order occurs when the clerk of the court places the file stamp and date upon the judgment, decree, or final order. For purposes of determining the time for appeal, the date stamped on the judgment, decree, or final order shall be the date of entry.

(4) The clerk shall prepare and maintain the records of judgments, decrees, and final orders that are required by statute and rule of the Supreme Court.

~~(3) Entry of a judgment is the act of the clerk of the court in spreading the proceedings had and the relief granted or denied on the journal of the court.~~

Sec. 4. Section 25-1301.01, Reissue Revised Statutes of Nebraska, is amended to read:

25-1301.01. Within three working days after the ~~rendition~~ entry of any civil judgment, except judgments by default when service has been obtained by publication, or an appearance of the defaulting party has been made, the clerk of the court shall send a postcard or notice by United States mail to each party whose address appears in the records of the action, or to ~~his~~ the party's attorney or attorneys of record, advising that a judgment has been ~~rendered~~ entered and the date of entry. ~~rendition thereof.~~

Sec. 5. Section 25-1505, Reissue Revised Statutes of Nebraska, is amended to read:

25-1505. No stay of execution or order of sale upon any judgment or

decree shall be granted for a longer time than nine months ~~from and~~ after the ~~rendition~~ entry of such judgment or decree.

Sec. 6. Section 25-1506, Reissue Revised Statutes of Nebraska, is amended to read:

25-1506. The order of sale on all decrees for the sale of mortgaged premises shall be stayed for the period of nine months ~~from and~~ after the ~~rendition~~ entry of such decree, whenever the defendant shall, within twenty days after the ~~rendition~~ entry of such decree, file with the clerk of the court a written request for the same. ~~If~~ ~~PROVIDED~~, ~~if~~ the defendant makes no such request within ~~said~~ twenty days, the order of sale may issue immediately after the expiration thereof. ~~As~~ ~~AND PROVIDED FURTHER~~, ~~that~~, as to any mortgage executed after September 28, 1959, if the original maturity of indebtedness secured by ~~said~~ the mortgage is more than twenty years ~~from and~~ after the date of the filing of the petition to foreclose ~~said~~ the mortgage and ~~said~~ the mortgage covered a lot or lots, or any part thereof, in a regularly platted subdivision, or parcel of residential property not exceeding three acres in area, the stay period shall be three months, and, as to such a mortgage executed after October 9, 1961, if such original maturity is more than ten years but not more than twenty years from and after the date of the filing of the foreclosure petition, the stay period shall be six months.

Sec. 7. Section 25-1507, Reissue Revised Statutes of Nebraska, is amended to read:

25-1507. On all judgments for the recovery of money only, except those rendered in any court on an appeal or writ of error thereto or against any officer or person or corporation, or the sureties of any of them, for money received in a fiduciary capacity, or for the breach of any official duty, there may be a stay of execution if the defendant therein shall, within twenty days ~~from the rendition~~ after the entry of judgment, procure two or more sufficient freehold sureties to enter into a bond, acknowledging themselves security for the defendant for the payment of the judgment, interest, and costs, from the time of ~~rendering~~ entering judgment until paid as follows: (1) If the sum for which judgment was rendered, exclusive of costs, does not exceed fifty dollars, three months; (2) if the sum for which judgment was rendered, exclusive of costs, exceeds fifty dollars and does not exceed one hundred dollars, six months; and (3) if the sum for which judgment was rendered, exclusive of costs, exceeds one hundred dollars, nine months.

Sec. 8. Section 25-1912, Revised Statutes Supplement, 1998, is amended to read:

25-1912. (1) The proceedings to obtain a reversal, vacation, or modification of judgments and decrees rendered or final orders made by the district court, including judgments and sentences upon convictions for felonies and misdemeanors, shall be by filing in the office of the clerk of the district court in which such judgment, decree, or final order was rendered, within thirty days after the ~~rendition~~ entry of such judgment, ~~or~~ decree, or ~~the making of such~~ final order, a notice of intention to prosecute such appeal signed by the appellant or appellants or his, her, or their attorney of record and, except as otherwise provided in sections 29-2306 and 48-641, by depositing with the clerk of the district court the docket fee required by section 33-103.

(2) A notice of appeal or docket fee filed or deposited after the announcement of a decision or final order but before the entry of the judgment, decree, or final order shall be treated as filed or deposited after the entry of the judgment, decree, or final order and on the date of entry.

(3) The running of the time for filing a notice of appeal shall be terminated as to all parties (a) by a motion for a new trial under section 25-1143 if such motion is filed by any party within ten days after the verdict, report, or decision was rendered or (b) by a motion to set aside the verdict or judgment under section 25-1315.02 if such motion is filed by any party within ten days after the receipt of a verdict, and the full time for appeal fixed in subsection (1) of this section commences to run from the entry of the order ruling upon the motion filed pursuant to subdivision (a) or (b) of this subsection. When any motion terminating the time for filing a notice of appeal is timely filed by any party, a notice of appeal filed before the court announces its decision upon the terminating motion shall have no effect, whether filed before or after the timely filing of the terminating motion. A new notice of appeal shall be filed within the prescribed time ~~from~~ after the entry of the order ruling on the motion. No additional fees are required for such filing. A notice of appeal filed after the court announces its decision or order on the terminating motion but before the entry of the order is treated as filed on the date of and after the entry of the order.

(4) ~~(3)~~ Except as otherwise provided in subsection ~~(2)~~ (3) of this section and sections 29-2306 and 48-641, an appeal shall be deemed perfected

and the appellate court shall have jurisdiction of the cause when such notice of appeal has been filed and such docket fee deposited in the office of the clerk of the district court, and after being perfected no appeal shall be dismissed without notice, and no step other than the filing of such notice of appeal and the depositing of such docket fee shall be deemed jurisdictional.

(5) ~~(4)~~ The clerk of the district court shall forward such docket fee and a certified copy of such notice of appeal to the Clerk of the Supreme Court, and the Clerk of the Supreme Court shall docket such appeal.

(6) ~~(5)~~ Within thirty days ~~from~~ after the date of filing of notice of appeal, the clerk of the district court shall prepare and file with the Clerk of the Supreme Court a transcript certified as a true copy of the proceedings contained therein. The Supreme Court shall, by rule, specify the method of ordering the transcript and the form and content of the transcript. Neither the form nor substance of such transcript shall affect the jurisdiction of the Court of Appeals or Supreme Court.

(7) ~~(6)~~ Nothing in this section shall prevent any person from giving supersedeas bond in the district court in the time and manner provided in section 25-1916 nor affect the right of a defendant in a criminal case to be admitted to bail pending the review of such case in the Court of Appeals or Supreme Court.

Sec. 9. Section 25-1914, Reissue Revised Statutes of Nebraska, is amended to read:

25-1914. On appeal in any case taken from the district court to the Court of Appeals or Supreme Court, other than an appeal pursuant to section 71-6904, the appellant or appellants shall, within thirty days after the ~~rendition~~ entry of the judgment, ~~or~~ decree, ~~or the making of the~~ final order sought to be reversed, vacated, or modified or within thirty days ~~from the~~ after the entry of the order overruling ~~of~~ a motion for a new trial in such cause, (1) file in the district court a bond or undertaking in the sum of seventy-five dollars to be approved by the clerk of the district court, conditioned that the appellant shall pay all costs adjudged against him or her in the appellate court, or (2) make a cash deposit with the clerk of at least seventy-five dollars for the same purpose. If a supersedeas bond is executed, no bond for costs shall be required. The giving of either form of bond or the making of such deposit shall be certified to by the clerk of the district court in the transcript for the appellate court. The appeal may be dismissed on motion and notice in the appellate court if no bond has been given and certified in the transcript or within such additional time as may be fixed by the appellate court for good cause shown.

Sec. 10. Section 25-1916, Reissue Revised Statutes of Nebraska, is amended to read:

25-1916. No appeal in any case shall operate as a supersedeas unless the appellant or appellants within thirty days after the ~~rendition~~ entry 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. 11. Section 25-1920, Reissue Revised Statutes of Nebraska, is amended to read:

25-1920. In all actions in which a temporary injunction has been granted and entered in the district court, which order allowing the temporary injunction is or has been superseded for by law, and in which action the trial court, on the merits, determined that the temporary injunction ought not to have been granted and a permanent injunction was refused in such action, such cause shall be advanced by the Court of Appeals or Supreme Court for hearing. In all such actions, if the relief demanded involves the delivery of irrigation water and the Director of Water Resources, as defined in section 25-1062.01, is a party, any appeal from the judgment or decree of the district court shall be perfected within thirty days after the ~~rendition~~ entry of such judgment, ~~or~~ decree, ~~or the making of a~~ final order by the district court, and the cause shall be advanced for hearing before the Court of Appeals or Supreme Court.

Sec. 12. Section 25-1931, Reissue Revised Statutes of Nebraska, is amended to read:

25-1931. Proceedings for reversing, vacating, or modifying judgments or final orders shall be commenced within thirty days after the ~~rendition~~ entry of the judgment, ~~decree, or~~ ~~or~~ making of the final order complained of, except that when the person entitled to such proceedings is an infant, mentally incompetent, or imprisoned, he or she shall have one year, exclusive of the time of his or her disability, within which to commence such proceedings.

Sec. 13. Section 25-21,234, Reissue Revised Statutes of Nebraska, is amended to read:

25-21,234. No appeal shall operate as a supersedeas unless the appellant within thirty days after the ~~rendition~~ entry of the judgment deposits with the clerk of the county court a cash bond or undertaking with at least one good and sufficient surety approved by the court conditioned in case of appeal by the plaintiff that he or she will satisfy the final judgment and costs and, in case of appeal by the defendant, that he or she will satisfy the final judgment and costs and will pay a reasonable rent for the premises during the time he or she shall have unlawfully withheld the same.

Sec. 14. Section 25-2719, Reissue Revised Statutes of Nebraska, is amended to read:

25-2719. Within three days after ~~rendition~~ entry of any judgment, the clerk of the county court shall send notice of the judgment by first-class United States mail to each party's attorney or attorneys of record or, if none, to an individual defendant at his or her usual place of residence, if known, and to a defendant not an individual to any proper recipient of summons for that party as designated by law.

Sec. 15. Section 25-2729, Reissue Revised Statutes of Nebraska, is amended to read:

25-2729. (1) In order to perfect an appeal from the county court, the appealing party shall within thirty days after the ~~rendition~~ entry of the judgment or ~~making of the~~ final order complained of:

- (a) File with the clerk of the county court a notice of appeal; and
- (b) Deposit with the clerk of the county court a docket fee in the amount of the filing fee in district court.

(2) Satisfaction of the requirements of subsection (1) of this section shall perfect the appeal and give the district court jurisdiction of the matter appealed.

(3) ~~The time of rendition entry of a judgment or making of a final order is the time at which the action of the judge in announcing the judgment or final order is noted on the trial docket or, if the action is not noted on the trial docket, the time at which the journal entry of the action is signed by the judge and filed~~ occurs when the clerk of the court places the file stamp and date upon the judgment or final order. For purposes of determining the time for appeal, the date stamped on the judgment or final order shall be the date of entry.

(4) In appeals from the Small Claims Court only, the appealing party shall also, within the time fixed by subsection (1) of this section, deposit with the clerk of the county court a cash bond or undertaking, with at least one good and sufficient surety approved by the court, in the amount of fifty dollars, conditioned that the appellant will satisfy any judgment and costs that may be adjudged against him or her.

(5) A notice of appeal or docket fee filed or deposited after the announcement of a decision or final order but before the ~~rendition entry~~ of the judgment or ~~making of the~~ final order shall be treated as filed or deposited after the ~~rendition entry~~ of the judgment or ~~making of the~~ final order and on the day ~~thereof~~ of entry.

(6) The running of the time for filing a notice of appeal shall be terminated as to all parties (a) by a motion for a new trial under section 25-1143 if such motion is filed by any party within ten days after the verdict, report, or decision was rendered or (b) by a motion to set aside the verdict or judgment under section 25-1315.02 if such motion is filed by any party within ten days after the receipt of a verdict, and the full time for appeal fixed in subsection (1) of this section commences to run from the entry of the order ruling upon the motion filed pursuant to subdivision (a) or (b) of this subsection. When any motion terminating the time for filing a notice of appeal is timely filed by any party, a notice of appeal filed before the court announces its decision upon the terminating motion shall have no effect, whether filed before or after the timely filing of the terminating motion. A new notice of appeal shall be filed within the prescribed time from the entry of the order ruling on the motion. No additional fees are required for such filing. A notice of appeal filed after the court announces its decision or order on the terminating motion but before the entry of the order is treated as filed on the date of and after the entry of the order.

(7) The party appealing shall serve a copy of the notice of appeal upon all parties who have appeared in the action or upon their attorney of record. Proof of service shall be filed with the notice of appeal.

(8) ~~(7)~~ If an appellant fails to comply with any provision of subsection (4) or ~~(6)~~ (7) of this section, the district court on motion and notice may take such action, including dismissal of the appeal, as is just.

Sec. 16. Section 25-2730, Reissue Revised Statutes of Nebraska, is amended to read:

25-2730. (1) In cases involving a money judgment or a judgment for the possession of specified personal property, no appeal shall operate as a supersedeas unless the appellant within thirty days after the ~~rendition entry~~ of the judgment deposits with the clerk of the county court a cash bond or an undertaking with at least one good and sufficient surety approved by the court. In cases involving a money judgment, the bond or undertaking shall be in the amount of the judgment, costs, and estimated interest pending appeal and conditioned that the appellant shall pay the judgment, interest, and costs adjudged against him or her on appeal. In cases involving a judgment for the possession of specified personal property, the bond or undertaking shall be in an amount at least double the value of the property and conditioned that the appellant shall pay all costs and damages adjudged against him or her on appeal and deliver the property in accordance with the judgment on appeal.

(2) In appeals in cases of forcible entry and detainer, no appeal shall operate as a supersedeas unless the party appealing shall deposit an undertaking or cash bond in accordance with section 25-21,234.

(3) In appeals in criminal cases, the execution of judgment and sentence, other than any sentence to a period of confinement, shall be suspended during the appeal. Execution of a sentence to a period of confinement shall be suspended only if (a) the county court, in its discretion, allows the defendant to continue at liberty under the prior recognizance or bail or (b) the defendant enters into a written recognizance to the State of Nebraska, with surety or sureties approved by the county court or with a cash bond, filed with the clerk of the county court. The condition of the recognizance shall be that the defendant will prosecute the appeal

without delay and abide and perform the judgment and sentence of the district court. Upon the filing of the notice of appeal, the county court shall fix the amount of the recognizance or cash bond, which shall be a reasonable amount. The cash bond shall be returned upon the fulfillment of the conditions of the bond.

(4) In appeals in cases under the Uniform Residential Landlord and Tenant Act, no appeal shall operate as a supersedeas of any writ of restitution unless the defendant deposits an undertaking or cash bond in accordance with section 76-1447.

(5) In all other cases, perfection of an appeal shall not stay the proceedings.

(6) In any case, the district court, on motion after notice and hearing and upon such terms as justice shall require, may stay any order or judgment appealed from, order a renewal or additional surety of an undertaking, or order the amount of the undertaking or recognizance increased or decreased. The action of the district court shall be certified by the clerk to the clerk of the county court.

Sec. 17. Section 29-2306, Reissue Revised Statutes of Nebraska, is amended to read:

29-2306. If a defendant in a criminal case files, within thirty days after the ~~rendition~~ entry of the judgment, order, or sentence, an affidavit with the clerk of the district court that he or she is unable by reason of poverty to pay the costs, then no payment of the docket fee shall be required of him or her. The clerk of the district court shall forward a certified copy of such affidavit to the Clerk of the Supreme Court. If such affidavit is filed, the Court of Appeals or Supreme Court shall acquire jurisdiction of the case when the notice of appeal is filed with the clerk of the district court. In cases in which such affidavits of poverty have been filed, the amount of the costs shall be endorsed on the mandate and the same shall be paid by the county in which the indictment was found.

Sec. 18. Section 30-1601, Revised Statutes Supplement, 1998, is amended to read:

30-1601. (1) In all matters arising under the Nebraska Probate Code, appeals may be taken to the Court of Appeals in the same manner as an appeal from district court to the Court of Appeals.

(2) An appeal may be taken by any party and may also be taken by any person against whom the final judgment or final order may be made or who may be affected thereby.

(3) When the appeal is by someone other than a personal representative, conservator, trustee, guardian, or guardian ad litem, the appealing party shall, within thirty days after the ~~rendition~~ entry of the judgment or ~~making of the~~ final order complained of, deposit with the clerk of the county court a supersedeas bond or undertaking in such sum as the court shall direct, with at least one good and sufficient surety approved by the court, conditioned that the appellant will satisfy any judgment and costs that may be adjudged against him or her, including costs under subsection (6) of this section, unless the court directs that no bond or undertaking need be deposited. If an appellant fails to comply with this subsection, the Court of Appeals on motion and notice may take such action, including dismissal of the appeal, as is just.

(4) The appeal shall be a supersedeas for the matter from which the appeal is specifically taken, but not for any other matter. In appeals pursuant to sections 30-2601 to 30-2661, upon motion of any party to the action, the county court may remove the supersedeas or require the appealing party to deposit with the clerk of the county court a bond or other security approved by the court in an amount and conditioned in accordance with sections 30-2640 and 30-2641. Once the appeal is perfected, the court having jurisdiction over the appeal may, upon motion of any party to the action, reimpose or remove the supersedeas or require the appealing party to deposit with the clerk of the court a bond or other security approved by the court in an amount and conditioned in accordance with sections 30-2640 and 30-2641. Upon motion of any interested party or upon the court's own motion, the county court may appoint a special guardian or conservator pending appeal despite any supersedeas order.

(5) The judgment of the Court of Appeals shall not vacate the judgment in the county court. The judgment of the Court of Appeals shall be certified without cost to the county court for further proceedings consistent with the determination of the Court of Appeals.

(6) If it appears to the Court of Appeals that an appeal was taken vexatiously or for delay, the court shall adjudge that the appellant shall pay the cost thereof, including an attorney's fee, to the adverse party in an amount fixed by the Court of Appeals, and any bond required under subsection

(3) of this section shall be liable for the costs.

Sec. 19. Section 31-433, Reissue Revised Statutes of Nebraska, is amended to read:

31-433. Any appeal to the Court of Appeals on any matter under sections 31-401 to 31-450 shall be taken within thirty days after the ~~rendition~~ entry of the judgment, ~~or decree, or the making of such final order~~ or within thirty days ~~from the~~ after the entry of the order overruling ~~of~~ a motion for a new trial in such cause. Any such appeal shall not operate to stay proceedings.

Sec. 20. Section 45-103.01, Reissue Revised Statutes of Nebraska, is amended to read:

45-103.01. Interest as provided in section 45-103 shall accrue on decrees and judgments for the payment of money from the date of ~~rendition~~ entry of judgment until satisfaction of judgment.

Sec. 21. Section 45-103.02, Reissue Revised Statutes of Nebraska, is amended to read:

45-103.02. (1) Except as provided in section 45-103.04, interest as provided in section 45-103 shall accrue on the unpaid balance of unliquidated claims from the date of the plaintiff's first offer of settlement which is exceeded by the judgment until the ~~rendition~~ entry of judgment if all of the following conditions are met:

(a) The offer is made in writing upon the defendant by certified mail, return receipt requested, to allow judgment to be taken in accordance with the terms and conditions stated in the offer;

(b) The offer is made not less than ten days prior to the commencement of the trial;

(c) A copy of the offer and proof of delivery to the defendant in the form of a receipt signed by the party or his or her attorney is filed with the clerk of the court in which the action is pending; and

(d) The offer is not accepted prior to trial or within thirty days of the date of the offer, whichever occurs first.

(2) Except as provided in section 45-103.04, interest as provided in section 45-104 shall accrue on the unpaid balance of liquidated claims from the date the cause of action arose until the ~~rendition~~ entry of judgment.

Sec. 22. Section 45-103.04, Reissue Revised Statutes of Nebraska, is amended to read:

45-103.04. Interest as provided in section 45-103.02 shall not accrue prior to the date of ~~rendition~~ entry of judgment for:

(1) Any action arising under Chapter 42; or

(2) Any action involving the state, a political subdivision of the state, or any employee of the state or any of its political subdivisions for any negligent or wrongful act or omission accruing within the scope of such employee's office or employment.

Sec. 23. Section 46-568, Reissue Revised Statutes of Nebraska, is amended to read:

46-568. The board may at any time file a petition in the court, praying a judicial examination and determination of (1) any power conferred hereby by any amendment hereto, (2) any tax or assessment levied, or (3) any act, proceeding, or contract of the district, whether or not the contract shall have been executed, including proposed contracts for the acquisition, construction, maintenance, or operation of works for the district. Such petition shall set forth the facts on which the validity of such power, assessment, act, proceeding, or contract is founded and shall be verified by the president of the board. Notice of the filing of the petition shall be given by the clerk of the district court, under the seal thereof, stating in brief outline the contents of the petition and showing where a full copy of any contract or contracts mentioned in the petition may be examined. The notice shall be served by publication in at least three consecutive issues of a weekly newspaper of general circulation published in the county in which the principal office of the district is located and by posting the same in the office of the district at least thirty days prior to the date fixed in the notice for the hearing on the petition. Any owner of property in the district or person interested in the contract or proposed contract may appear and demur to or answer the petition at any time prior to the date fixed for the hearing or within such further time as may be allowed by the court, and the petition shall be taken as confessed by all persons who fail to appear. The petition and notice shall be sufficient to give the court jurisdiction. Upon hearing, the court shall examine into and determine all matters and things affecting the question submitted, make such findings with reference thereto, and render such judgment and decree thereon as the case warrants. Costs may be divided or apportioned among the contesting parties in the discretion of the trial court. Review of the judgment and decree of the court may be had as in other

similar cases but shall be commenced within thirty days after the ~~rendition entry~~ of the judgment, ~~or~~ decree, or the making of the final order complained of. The code of civil procedure shall govern in matters of pleading and practice where not otherwise specified in this section. The court shall disregard any error, irregularity, or omission which does not affect the substantial rights of the parties.

Sec. 24. Section 48-170, Reissue Revised Statutes of Nebraska, is amended to read:

48-170. Every order and award of a single judge of the Nebraska Workers' Compensation Court shall be binding upon each party at interest unless an application for review has been filed with the compensation court within fourteen days ~~following~~ after the date of ~~rendition entry~~ of the order or award.

Sec. 25. Section 48-185, Reissue Revised Statutes of Nebraska, is amended to read:

48-185. Any appeal from the judgment of the Nebraska Workers' Compensation Court after review shall be prosecuted and the procedure, including the designation of parties, handling of costs and the amounts thereof, filing of briefs, certifying the opinion of the Supreme Court or decision of the Court of Appeals to the compensation court, handling of the bill of exceptions, and issuance of the mandate, shall be in accordance with the general laws of the state and procedures regulating appeals in actions at law from the district courts except as otherwise provided in section 48-182 and this section. The proceedings to obtain a reversal, vacation, or modification of judgments, awards, or final orders made by the compensation court after a review shall be by filing in the office of the clerk of the Nebraska Workers' Compensation Court, within thirty days after the ~~rendition entry~~ of such judgment, ~~or~~ decree, or the making of such final order, a notice of intention to prosecute such appeal signed by the appellant or his or her attorney of record. No motion for a new trial shall be filed. An appeal shall be deemed perfected and the appellate court shall have jurisdiction of the cause when such notice of appeal shall have been filed in the office of the clerk of the Nebraska Workers' Compensation Court, and after being so perfected no appeal shall be dismissed without notice, and no step other than the filing of such notice of appeal shall be deemed jurisdictional. The clerk of the Nebraska Workers' Compensation Court shall forthwith forward a certified copy of such notice of appeal to the Clerk of the Supreme Court, whereupon the Clerk of the Supreme Court shall forthwith docket such appeal. Within thirty days ~~from~~ after the date of filing of notice of appeal, the clerk of the Nebraska Workers' Compensation Court shall prepare and file with the Clerk of the Supreme Court a transcript certified as a true copy of the proceedings contained therein. The transcript shall contain the judgment, decree, or final order sought to be reversed, vacated, or modified and all pleadings filed with such clerk. Neither the form nor the substance of such transcript shall affect the jurisdiction of the appellate court. Such appeal shall be perfected within thirty days ~~from~~ after the ~~rendition entry~~ of judgment by the compensation court, the cause shall be advanced for argument before the appellate court, and the appellate court shall render its judgment and write an opinion, if any, in such cases as speedily as possible. The judgment made by the compensation court after review shall have the same force and effect as a jury verdict in a civil case. A judgment, order, or award of the compensation court may be modified, reversed, or set aside only upon the grounds that (1) the compensation court acted without or in excess of its powers, (2) the judgment, order, or award was procured by fraud, (3) there is not sufficient competent evidence in the record to warrant the making of the order, judgment, or award, or (4) the findings of fact by the compensation court do not support the order or award.

Sec. 26. Section 59-823, Reissue Revised Statutes of Nebraska, is amended to read:

59-823. When any suit in equity is brought in any court under sections 59-801 to 59-828 in which the state is complainant, the Attorney General may file with the clerk of such court a certificate that, in his or her opinion, the case is of general public importance, a copy of which certificate shall be immediately furnished by such clerk to the judge of the court in which the case is pending. Thereupon such case shall be given precedence over others and in every way expedited and be assigned for hearing at the earliest practicable day. An appeal from the final decree of the court shall lie to the Court of Appeals and shall be taken within thirty days after the ~~rendition entry~~ of such decree or the making of a final order or within thirty days ~~from the~~ after entry of the order overruling ~~of~~ a motion for a new trial in such cause.

Sec. 27. Section 76-1906, Reissue Revised Statutes of Nebraska, is

amended to read:

76-1906. (1) In an action against protected real estate for the foreclosure of any mortgage or trust deed described in section 76-1904 with respect to which no waiver or disclaimer of the right to make a designation of homestead has been made or is otherwise binding in accordance with section 76-1905, if any part of the homestead of the mortgagor or trustor is included in a decree directing a sale of the mortgaged premises or trust property, the mortgagor or trustor may request redemption of his or her redemptive homestead. Such request shall be made in a petition signed and sworn to by the mortgagor or trustor and filed in the foreclosure action not later than twenty days after ~~redemption~~ entry of the decree of foreclosure.

(2) In any proceeding against protected real estate involving the exercise of a power of sale by a trustee under a trust deed described in section 76-1904 with respect to which no waiver or disclaimer of the right to make a designation of homestead has been made or is otherwise binding in accordance with section 76-1905, if any part of the homestead of the trustor is included in the notice of default filed in accordance with section 76-1006, the trustor may request redemption of his or her redemptive homestead. Such request shall be made in a petition signed and sworn to by the trustor and filed in the district court of the county where the trust property is located not later than two months following recordation of the notice of default.

(3) If protected real estate of a judgment debtor is subject to the lien of a judgment entered on or after November 21, 1986, and if no waiver or disclaimer of the right to make a designation of homestead is binding in accordance with section 76-1905, the judgment debtor may request redemption of his or her redemptive homestead. Such request shall be made in a petition signed and sworn to by the judgment debtor and filed in the district court of the county where the redemptive homestead is located not later than the date of the last publication of the notice required by section 25-1529.

Sec. 28. Section 76-1912, Reissue Revised Statutes of Nebraska, is amended to read:

76-1912. (1) In an action for the foreclosure of a mortgage upon agricultural land which was recorded prior to November 21, 1986, or a mortgage recorded on or after November 21, 1986, in which the right to designate a homestead has been waived or disclaimed pursuant to section 76-1904, if any part of the homestead of the mortgagor is included in a decree directing a sale of the mortgaged premises, upon request of the mortgagor, the mortgaged premises shall be offered in separate sales. The first sale shall be en masse and, immediately thereafter, at the same location, the premises shall again be sold. At the second sale, the mortgaged premises shall be sold in two separate parcels with the homestead designated in the mortgagor's request being the last parcel to be sold. The sheriff or other person authorized by the court to sell the mortgaged premises shall make return of both sales. The court shall confirm, subject to the provisions of section 25-1531, the sale upon which the greater amount is realized, except that if in the second sale by parcels the mortgagor bids for his or her designated homestead, and if, by virtue of the price bid by the mortgagor for such homestead, the aggregate amount realized in the second sale equals or exceeds the amount realized from the first sale en masse or the amount of the decree, whichever is less, then the court shall confirm the sale by parcels and the mortgagor shall be the purchaser of his or her designated homestead.

(2) The mortgagor's request shall be signed and acknowledged by the mortgagor and filed with the clerk of the court within twenty days after ~~redemption~~ entry of the decree of foreclosure.

(3) The mortgagor's request shall include his or her designation of homestead.

Sec. 29. Original sections 24-734, 25-1301, 25-1301.01, 25-1505 to 25-1507, 25-1914, 25-1916, 25-1920, 25-1931, 25-21,234, 25-2719, 25-2729, 25-2730, 29-2306, 31-433, 45-103.01, 45-103.02, 45-103.04, 46-568, 48-170, 48-185, 59-823, 76-1906, and 76-1912, Reissue Revised Statutes of Nebraska, and sections 25-705, 25-1912, and 30-1601, Revised Statutes Supplement, 1998, are repealed.

Sec. 30. The following section is outright repealed: Section 25-543, Reissue Revised Statutes of Nebraska.