

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office

May 19, 1999

LB 661

satisfactory rating with the regulators which is basically the Office of Thrift Supervision, the FDIC, and those people because they're the insurance companies and they're the ones that are going to have to pay if the bank becomes insolvent. They've required all those institutions to go through three tests and receive a rating. Okay? And if they don't get the rating, they then lose their banking privileges or they then go on a lower list and basically suffer the pains of the regulators of which all banks fear those regulators. There's a fourth examination they've got to go through by the end of the year. So they can't walk off on this. The second group of people that are in the bill, and these are the ones that the bill covers so it isn't everybody else in general, the second group are the public defendants, that's the state and the political subdivisions. And the statute requires that they have to make reasonable efforts to protect the computer systems and the softwares and the programs. Now since we don't know...I mean we're talking about everything here, all sorts of situations, what are reasonable efforts? When you get sued, that's the issue. Was it a reasonable effort to go off and test it? Was it a reasonable effort to make changes? Was it a reasonable effort to buy new equipment? Was it a reasonable effort that you had to go out and have a practice run? And for each different entity, that may be a little different, but it doesn't protect them from getting sued. They can still be sued. The issue is and their cause will be, did they make a reasonable effort? And that's what the jury would decide. So they're not getting complete immunity. If they got complete immunity, they could walk off and say we don't have to worry because they can't sue us. We're immune. We're not putting in immunities into this bill so those are the ways that we restricted them down.

SENATOR CUDABACK: Thirty seconds, Senator Kristensen.

SPEAKER KRISTENSEN: And I'll give you back the time if you want to ask an additional question, but with 30 seconds it probably isn't worth the time.

SENATOR LYNCH: (Microphone not activated) ...won't take that long, and don't answer this if you don't want to. But why would trial lawyers come out of the woodwork on forgiving liability for doctors who volunteer their time who are retired with street