

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

May 19, 1999

LB 661

adopt this amendment. This is Section 2. It says, "Damages recoverable in a civil action against a complying public defendant or a complying financial institution," and complying financial institution and complying public defendant are described above in the amendment by definition and that's an institution that's got the satisfactory rating and a public defendant that's done all reasonable efforts. So they've jumped through those two hoops. They shall be...damages shall be recovered against those two which result from a computer date failure which we defined and shall be based only or shall only be based on a contract to which the plaintiff is a party. So that means they are going to be responsible for those things where they are and have a contract. The contract can be oral, it can be written. When you go to the city and you start paying your utilities, you've entered into a contract, in other words, you've developed that relationship. They would have a contract even though you don't go to a lawyer and sign that contract. Those people who they have that sort of contractual relationship for and there is a computer date failure, you're going to be responsible to them for those damages that allow. Now in the amendment before, the committee amendment, at least for the public defendants they would not be responsible for consequential or special damages. This amendment takes that out, treats everybody the same, and basically if you have a contract with them, you're going to be responsible for all types of damages. What are consequential or special damages? In a contract case, those are basically lost profits and wages is probably the best or lost profits, excuse me, would be the best example that I could give to you. And I'd be happy to answer any questions. Senator Brashear, I don't want to give anybody any more heartburn than they may already be getting at the moment; but that's the best I can define the amendment. I believe that this doesn't open up the floodgates and it also doesn't restrict people's ability to sue down so far that no one can sue. You'll still have the delay in filing of the class action suits for the financial institutions. You still would have the restriction of not having any class action suits against the state or the public subdivisions. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Kristensen. Senator Brashear, on the second part of the Kristensen divided