

LEGISLATIVE BILL 876

Approved by the Governor April 18, 2002

Introduced by Brashear, 4

AN ACT relating to law; to amend sections 24-209, 25-217, 25-318, 25-321, 25-323, 25-328, 25-330, 25-331, 25-501, 25-503.01, 25-504.01, 25-516.01, 25-531, 25-1002, 25-1063, 25-1064.01, 25-1075, 25-1085, 25-1102, 25-1321, 25-1715, 25-2005, 25-2124, 25-2125, 25-2137 to 25-2140, 25-2142, 25-2143, 25-2148, 25-2151, 25-2162, 25-2170, 25-2171, 25-2178, 25-21,108, 25-21,113, 25-21,115, 25-21,124, 25-21,134, 25-21,156, 25-21,202, 25-21,206, 25-21,223, 25-2210, 25-2211, 25-2221, 25-2226, 29-3920, 33-107.01, 42-351, 44-2833, 44-2840, 44-2841, 44-2842, 76-1441, 76-1442, 77-1904, and 77-1906, Reissue Revised Statutes of Nebraska, sections 25-519, 25-525, 25-1506, 25-2002, 25-2704, 25-2805, 45-103, 60-4,105, 76-1002, 77-1917, and 81-1316, Revised Statutes Supplement, 2000, and sections 13-518, 25-2924, 25-2925, 25-2928, 29-2709, 29-3921, 29-3927, 29-3931, 29-3932, 29-3933, 29-4121, and 29-4122, Revised Statutes Supplement, 2001; to change and eliminate general civil procedure pleading provisions; to rename the County Revenue Assistance Fund; to change provisions relating to the Commission on Public Advocacy, reimbursement to counties, court holidays, distribution of court reports, a legal services fee, court jurisdiction in dissolution of marriage proceedings, interest on decrees and judgments, and trust deeds; to change and terminate provisions relating to settlement escrow; to harmonize provisions; to provide duties for the Revisor of Statutes; to provide operative dates; to repeal the original sections; to outright repeal sections 25-801 to 25-823, 25-832 to 25-838, 25-841 to 25-856, 25-2175, 77-1905, and 77-1907, Reissue Revised Statutes of Nebraska; and to declare an emergency.

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

Section 1. (1) By January 1, 2003, the Supreme Court shall have rules of pleading in civil actions promulgated which are not in conflict with the statutes governing such matters.

(2) For all civil actions filed on or after January 1, 2003:

(a) The rules of pleading promulgated by the Supreme Court shall apply;

(b) The plaintiff's initial pleading shall be a petition when that designation is provided elsewhere by statutes. In all other civil actions the plaintiff's initial pleading shall be a complaint;

(c) The cross-petition, cross-bill, and cross-suit are abolished. Demurrers to a pleading and special appearances shall not be used. The plea in bar, plea in abatement, and other dilatory pleas shall not be used in civil actions; and

(d) All pleadings shall be construed as to do substantial justice.

Sec. 2. (1) An amendment of a pleading that does not change the party or the name of the party against whom the claim is asserted relates back to the date of the original pleading if the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading.

(2) If the amendment changes the party or the name of the party against whom a claim is asserted, the amendment relates back to the date of the original pleading if (a) the claim or defense asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, and (b) within the period provided for commencing an action the party against whom the claim is asserted by the amended pleading (i) received notice of the action such that the party will not be prejudiced in maintaining a defense on the merits and (ii) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against the party.

Sec. 3. Section 13-518, Revised Statutes Supplement, 2001, is amended to read:

13-518. For purposes of sections 13-518 to 13-522:

(1) Allowable growth means (a) for governmental units other than community colleges, the percentage increase in taxable valuation in excess of the base limitation established under section 77-3446, if any, due to improvements to real property as a result of new construction, additions to

existing buildings, any improvements to real property which increase the value of such property, and any increase in valuation due to annexation and any personal property valuation over the prior year and (b) for community colleges, the percentage increase in excess of the base limitation, if any, in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined;

(2) Capital improvements means (a) acquisition of real property or (b) acquisition, construction, or extension of any improvements on real property;

(3) Governing body has the same meaning as in section 13-503;

(4) Governmental unit means every political subdivision which has authority to levy a property tax or authority to request levy authority under section 77-3443 except sanitary and improvement districts which have been in existence for five years or less and school districts;

(5) Qualified sinking fund means a fund or funds maintained separately from the general fund to pay for acquisition or replacement of tangible personal property with a useful life of five years or more which is to be undertaken in the future but is to be paid for in part or in total in advance using periodic payments into the fund. The term includes sinking funds under subdivision (13) of section 35-508 for firefighting and rescue equipment or apparatus;

(6) Restricted funds means (a) property tax, excluding any amounts refunded to taxpayers, (b) payments in lieu of property taxes, (c) local option sales taxes, (d) motor vehicle taxes, (e) state aid, (f) transfers of surpluses from any user fee, permit fee, or regulatory fee if the fee surplus is transferred to fund a service or function not directly related to the fee and the costs of the activity funded from the fee, (g) any funds excluded from restricted funds for the prior year because they were budgeted for capital improvements but which were not spent and are not expected to be spent for capital improvements, and (h) any excess tax collections returned to the county under section 77-1776; and

(7) State aid means:

(a) For all governmental units, state aid paid pursuant to sections 60-305.15 and 77-3523;

(b) For municipalities, state aid to municipalities paid pursuant to sections 18-2605, 39-2501 to 39-2520, 60-3007, 77-27,136, and 77-27,139.04 and insurance premium tax paid to municipalities;

(c) For counties, state aid to counties paid pursuant to sections 39-2501 to 39-2520, 47-119.01, 60-3001 to 60-3007, 77-27,136, and 77-3618, insurance premium tax paid to counties, and reimbursements to counties from ~~the County Revenue Assistance Fund under~~ funds appropriated pursuant to section 29-3933;

(d) For community colleges, state aid to community colleges paid under sections 85-1536 to 85-1537.01;

(e) For natural resources districts, state aid to natural resources districts paid pursuant to section 77-27,136; and

(f) For educational service units, state aid appropriated under section 79-1241.

Sec. 4. Section 24-209, Reissue Revised Statutes of Nebraska, is amended to read:

24-209. (1) One copy of the Nebraska Reports and one copy of the Nebraska Appellate Reports shall be furnished by the Supreme Court to each judge of the Supreme Court, Court of Appeals, Nebraska Workers' Compensation Court, and district, separate juvenile, and county courts, to each county law library, and to each state library, to each officer of the executive departments of this state, to the Clerk of the Legislature, and to each judge of the United States District and Circuit Courts of this state, and two copies of such reports shall be furnished to the Legislative Council. The State Court Administrator shall be furnished as many additional copies as he or she deems necessary for the operation of the Court of Appeals and the Supreme Court. ~~, two copies, to the library of the College of Law of the University of Nebraska, as provided in sections 85-176 and 85-177, to the Nebraska Publications Clearinghouse, eight copies, and to the State Court Administrator's Office, up to fifteen copies.~~

(2) One advance copy of the opinions of the Nebraska Supreme Court in pamphlet form, known as the Nebraska Advance Sheets, and one advance copy of the opinions of the Nebraska Court of Appeals in pamphlet form, known as the Decisions of the Nebraska Court of Appeals, shall be furnished to each judge of the Supreme Court, Court of Appeals, Nebraska Workers' Compensation Court, and district, separate juvenile, and county courts, as many advance copies as may be requested by the members of the Legislature shall be furnished to the Clerk of the Legislature, ~~two advance copies shall be~~

~~furnished to each standing committee of the Legislature, up to twenty-five advance copies shall be furnished to the Attorney General, one advance copy shall be furnished to the Governor,~~ and the State Court Administrator shall be furnished as many advance copies as he or she deems necessary for the operation of the Court of Appeals and the Supreme Court.

(3) The balance of the Nebraska Reports, Nebraska Appellate Reports, Nebraska Advance Sheets, and Decisions of the Nebraska Court of Appeals shall be sold as called for at such price as shall be prescribed by the Supreme Court. The Supreme Court shall also prescribe the price for microform copies of the reports. The money received from such sales shall be paid into the Supreme Court Reports Cash Fund which is hereby created.

(4) Upon request from any office or entity entitled to free copies of the Nebraska Reports, the Nebraska Appellate Reports, the Nebraska Advance Sheets, or the Decisions of the Nebraska Court of Appeals, the court may stop sending the publications to such office or entity until the request is withdrawn.

Sec. 5. Section 25-217, Reissue Revised Statutes of Nebraska, is amended to read:

25-217. An action is commenced on the date the ~~petition~~ complaint is filed with the court. The action shall stand dismissed without prejudice as to any defendant not served within six months from the date the ~~petition~~ complaint was filed.

Sec. 6. Section 25-318, Reissue Revised Statutes of Nebraska, is amended to read:

25-318. Of the parties to the action, those who are united in interest ~~must~~ shall be joined as plaintiffs or defendants; but if the consent of one who should have been joined as plaintiff cannot be obtained, he or she may be made a defendant, the reason being stated in ~~petition~~ the complaint.

Sec. 7. Section 25-321, Reissue Revised Statutes of Nebraska, is amended to read:

25-321. When the plaintiff ~~shall be~~ is ignorant of the name of the defendant, such defendant may be designated in any pleading or proceeding by any name, or any name and description, followed by the words, "real name unknown". In any such case the person intended shall thereupon be regarded as a defendant in such action or proceeding and as sufficiently identified therein for all purposes, including service of summons or constructive service when authorized and as prescribed by the Code of Civil Procedure of the State of Nebraska in Chapter 25. In any action wherein it is alleged in the ~~petition~~ complaint or other pleading that there are persons who have or that there are persons who claim or appear to have some interest in, right or title to, or lien upon any real or personal property within this state involved in such action, and that the ownership of, interest in, rights or title to, or lien upon such property of such persons, does not appear of record, in or by their respective names, in the county wherein such property is situated, and that the plaintiff or person in whose behalf such allegations are made, after diligent investigation and inquiry, is unable to ascertain and does not know the names or whereabouts if in this state, or the residence of such persons, such action may proceed against all such persons designated as "all persons having or claiming any interest in" such property which shall be accurately and definitely described, followed by the words, "real names unknown".

Sec. 8. Section 25-323, Reissue Revised Statutes of Nebraska, is amended to read:

25-323. The court may determine any controversy between parties before it when it can be done without prejudice to the rights of others or by saving their rights; but when a determination of the controversy cannot be had without the presence of other parties, the court must order them to be brought in.

Any person whose negligence was or may have been a proximate cause of an accident or occurrence alleged by the plaintiff, other than parties who have been released by the plaintiff and are not subject to suit pursuant to section 25-21,185.11, may be brought into the suit by any ~~defendant~~ party in the manner provided in section 25-331 or 25-705. ~~by any plaintiff in the manner provided in sections 25-849 and 25-852.~~

Sec. 9. Section 25-328, Reissue Revised Statutes of Nebraska, is amended to read:

25-328. Any person who has or claims an interest in the matter in litigation, in the success of either of the parties to an action, or against both, in any action pending or to be brought in any of the courts of the State of Nebraska, may become a party to an action between any other persons or corporations, either by joining the plaintiff in claiming what is sought by the ~~petition~~ complaint, or by uniting with the defendants in resisting the claim of the plaintiff, or by demanding anything adversely to both the

plaintiff and defendant, either before or after issue has been joined in the action, and before the trial commences.

Sec. 10. Section 25-330, Reissue Revised Statutes of Nebraska, is amended to read:

25-330. The intervention shall be by ~~petition~~ complaint, which ~~must~~ shall set forth the facts on which the intervention rests, and all the pleadings therein shall be governed by the same rules as ~~obtain in regard to~~ other pleadings provided for ~~by this code~~ in Chapter 25. If such ~~petition~~ complaint is filed during term, the court shall direct the time in which answers thereto shall be filed.

Sec. 11. Section 25-331, Reissue Revised Statutes of Nebraska, is amended to read:

25-331. (1) At any time after commencement of the action, a ~~defendant~~ defending party, as a third-party plaintiff, may cause a summons and complaint to be served upon a person not a party to the action who is or may be liable to ~~him~~ the third-party plaintiff for all or part of the plaintiff's claim against ~~him~~ the third-party plaintiff. The third-party plaintiff need not obtain leave to make the service if the third-party plaintiff files the third-party complaint not later than ten days after filing the original answer. Otherwise the third-party plaintiff must obtain leave of the trial court on motion upon notice to all parties to the action. before filing a third-party complaint. When authorized by the trial court ~~the~~ The person served with the summons and third-party complaint, hereinafter called the third-party defendant, shall have all the rights of a defendant including the rights authorized by this section. The third-party defendant may assert against the plaintiff any defenses which the third-party plaintiff has to the plaintiff's claim. The third-party defendant may also assert any claim against the plaintiff arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff. The plaintiff may assert any claim against the third-party defendant arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff. The third-party defendant shall have all the rights of a defendant including the rights authorized by this section. The court on its own motion, or motion of any party, may move to strike the third-party claim, or for its severance or separate trial if the third-party claim should delay trial, might tend to confuse a jury, or in any way jeopardize the rights of the plaintiff. A third-party defendant or subsequent defendants may proceed under this section.

(2) When a counterclaim is asserted against a plaintiff, the plaintiff may cause a third party to be brought in under circumstances which under this section would entitle a defendant to do so.

Sec. 12. Section 25-501, Reissue Revised Statutes of Nebraska, is amended to read:

25-501. A civil action must be commenced by filing ~~of a~~ petition complaint in the office of the clerk of a proper court.

Sec. 13. Section 25-503.01, Reissue Revised Statutes of Nebraska, is amended to read:

25-503.01. (1) The summons shall be directed to the defendant or defendants, and contain the names of the parties and the name and address of the plaintiff's attorney, if any, otherwise the address of the plaintiff. It shall notify defendant that in order to defend the lawsuit an appropriate written response ~~must~~ shall be filed with the court within thirty days after service, and that upon failure to do so the court may enter judgment for the relief demanded in the ~~petition~~ complaint.

(2) A judgment by default shall not be different in kind from that demanded in the ~~petition~~ complaint. If only special damages are demanded a judgment by default shall not exceed the amount demanded in the ~~petition~~ complaint.

Sec. 14. Section 25-504.01, Reissue Revised Statutes of Nebraska, is amended to read:

25-504.01. A copy of the ~~petition~~ complaint shall be served with the summons, except when service is by publication. The plaintiff shall deliver to the clerk sufficient copies of the ~~petition~~ complaint at the time it is filed.

Sec. 15. Section 25-516.01, Reissue Revised Statutes of Nebraska, is amended to read:

25-516.01. (1) The voluntary appearance of the party is equivalent to service.

(2) ~~Prior to filing any other pleading or motion, a special appearance may be made for the purpose of objecting to the jurisdiction of the court over the person of the defendant. The defendant's assertion of a claim for affirmative relief by way of counterclaim, cross-claim, or third-party~~

claim waives any objection that the court erred in overruling the special appearance. The defendant's participation in proceedings on any issue other than jurisdiction over the person waives any objection that the court erred in overruling the special appearance except the objection that the defendant is not amenable to process issued by a court of this state. A defense of lack of jurisdiction over the person, insufficiency of process, or insufficiency of service of process may be asserted only under the procedure provided in the pleading rules adopted by the Supreme Court. If any of those defenses are asserted either by motion or in a responsive pleading and the court overrules the defense, an objection that the court erred in its ruling will be waived and not preserved for appellate review if the party asserting the defense either (a) thereafter files a demand for affirmative relief by way of counterclaim, cross-claim, or third-party claim or (b) fails to dismiss a demand for such affirmative relief that was previously filed. If any of those defenses are asserted either by motion or in a responsive pleading and the court overrules the defense, an objection that the court erred in its ruling on any issue, except the objection that the party is not amenable to process issued by a court of this state, will be waived and not preserved for appellate review if the party asserting the defense thereafter participates in proceedings on any issue other than those defenses.

Sec. 16. Section 25-519, Revised Statutes Supplement, 2000, is amended to read:

25-519. The publication shall be made once in each week for three successive weeks in some newspaper printed in the county where the ~~petition~~ complaint is filed if there is any printed in such county and, if there is not, in some newspaper printed in this state of general circulation in that county. It ~~must~~ shall contain a summary statement of the ~~object and prayer~~ claim for relief of the petition complaint, mention the court wherein it is filed, and notify the person or persons thus to be served when they are required to answer.

Sec. 17. Section 25-525, Revised Statutes Supplement, 2000, is amended to read:

25-525. A party against whom a judgment or order has been rendered without other service than by publication in a newspaper, may, at any time within five years after the date of entry of the judgment or order, have the same opened to allow the applicant to appear in court and make a defense. Before the judgment or order is opened, the applicant shall give notice to the adverse party of the intention to make such application and shall file a full answer to the petition or complaint, pay all costs, if the court requires them to be paid, and make it appear to the satisfaction of the court, by affidavit, that during the pendency of the action the applicant had no actual notice thereof in time to appear in court and make a defense. The title to any property, the subject of the judgment or order sought to be opened, which by it, or in consequence of it, has passed to a purchaser in good faith, shall not be affected by any proceedings under this section, nor shall the proceedings affect the title of any property sold before judgment under an attachment. The adverse party, on the hearing of an application to open a judgment or order, as provided by this section, shall be allowed to present counter-affidavits, to show that during the pendency of the action the applicant had notice thereof in time to appear in court and make a defense.

Sec. 18. Section 25-531, Reissue Revised Statutes of Nebraska, is amended to read:

25-531. When the summons has been served or publication made, the action is pending so as to charge third persons with notice of pendency. While the action is ~~and while~~ pending no interest can be acquired by third persons in the subject matter thereof, as against the plaintiff's title. ~~In + PROVIDED, in~~ all actions brought to affect the title to real property, the plaintiff may either at the time of filing his or her petition complaint or afterwards, file, or in case any defendant sets up an affirmative cause of action, and demands relief which shall affect the title to real estate, he or she may, at the time of filing such answer, or at any time afterwards, file with the clerk or register of deeds of each county in which the ~~said~~ real estate thus to be affected, or any part thereof, ~~may be~~ is situated, a notice of the pendency of such action. The notice shall contain ~~containing~~ the names of the parties, the object of the action, and a description of the property in such county sought to be affected thereby. If the action ~~be is~~ for foreclosure of a mortgage, such notice ~~must~~ shall contain the date of the mortgage, the parties thereto, and the time and place of recording the same. The clerk or register of deeds of such county shall record the notice thus filed and enter the same upon the numerical index of all lands, any part of which is included in the description in ~~said~~ the notice, for which he or she shall be entitled to receive filing fees in accordance with sections 33-109

and 33-112, to be paid by the person filing such notice, and which shall be taxed as part of the costs in ~~said~~ the action. From the time of filing such notice the pendency of such action shall be constructive notice to any purchaser or encumbrancer to be affected thereby. ~~Every~~ ~~and every~~ person whose conveyance or encumbrance is subsequently executed or subsequently recorded shall be deemed to be a subsequent purchaser or encumbrancer, and shall be bound by all proceedings taken in ~~said~~ the action after the filing of such notice to the same extent as if he or she were made a party to the action. The court in which such action was commenced or any judge thereof may at any time thereafter on the application of any person aggrieved, ~~and~~ on good cause shown, and on such notice as the court or judge may determine, order ~~said~~ the notice to be canceled by the clerk or register of deeds of any county in which ~~said~~ the notice may have been filed or recorded by filing a notice of release. In actions ~~where~~ in which such notice ~~may be~~ ~~is~~ filed in a county or counties, other than the county in which the action ~~may be~~ ~~is~~ pending, the county clerk or the register of deeds of the county in which the action was begun may cancel such notice by executing a written release under his or her hand and seal by reason of the ~~said~~ the order of the court or judge, and forward such release by mail to the county clerk or register of deeds of the county in which ~~said~~ the notice has been filed or recorded, and which certificate such county clerk or register of deeds shall record in the records of his or her office. At any time after such notice of pendency ~~shall have been~~ ~~is~~ recorded, the party on whose behalf the same was filed or ~~his~~ the party's attorney of record may cause ~~said~~ the notice to be canceled in the office of the county clerk or register of deeds of any county in which ~~said~~ the notice ~~may have~~ ~~has~~ been filed or recorded. Such cancellation may be made by written release in the same manner as such cancellations are entered on order of the court. For the service ~~herein~~ required by this section, the county clerk or register of deeds shall be entitled to charge and receive fees in accordance with sections 33-109 and 33-112, to be paid by the party causing the service to be performed.

Sec. 19. Section 25-1002, Reissue Revised Statutes of Nebraska, is amended to read:

25-1002. An order of attachment shall be approved by a judge of any district court or county court only after there has been presented to him or her an affidavit or affidavits based upon personal knowledge (1) that the facts set forth in plaintiff's ~~petition~~ complaint which state a valid cause of action and the amount plaintiff is entitled to recover are true, (2) describing the existence and approximate value of any of defendant's property known to the plaintiff to be subject to the jurisdiction of the court, and (3) stating specific facts demonstrating reasonable cause that one or more of the grounds for an attachment enumerated in section 25-1001 exist.

Sec. 20. Section 25-1063, Reissue Revised Statutes of Nebraska, is amended to read:

25-1063. When it appears by the ~~petition~~ complaint that the plaintiff is entitled to the relief demanded, and such relief or any part thereof consists in restraining the commission or continuance of some act, the commission or continuance of which during the litigation would produce great or irreparable injury to the plaintiff, or when, during the litigation, it appears that the defendant is doing, or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the plaintiff's rights respecting the subject of the action and tending to render the judgment ineffectual, a temporary injunction may be granted to restrain such act, subject to the limitations of sections 25-1062 to 25-1080. It may also be granted in any case ~~where it is~~ specially authorized by statute.

Sec. 21. Section 25-1064.01, Reissue Revised Statutes of Nebraska, is amended to read:

25-1064.01. Every order granting an injunction and every restraining order shall: (1) Set forth the reasons for its issuance; (2) be specific in terms; (3) describe in reasonable detail, and not by reference to the ~~petition~~ pleading or other document, the act or acts sought to be restrained; and (4) be binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

Sec. 22. Section 25-1075, Reissue Revised Statutes of Nebraska, is amended to read:

25-1075. If the injunction is granted without notice, the defendant, at any time before the trial, may apply, upon notice, to the court in which the action is brought or any judge thereof, to vacate or modify the same. The application may be made upon the complaint or petition and affidavits upon which the injunction is granted, or upon affidavits on the

part of the party enjoined, with or without answer. The order of the judge allowing, dissolving, or modifying an injunction shall be returned to the office of the clerk of the court in which the action is brought and recorded and obeyed as if made by the court.

Sec. 23. Section 25-1085, Reissue Revised Statutes of Nebraska, is amended to read:

25-1085. If a complainant ~~shall desire~~ desires the appointment of a receiver at the commencement of the action, ~~he shall pray the complainant shall request such appointment in his bill the complaint.~~ If the occasion for a receiver shall arise arises while the suit is pending, the application shall be made by a motion petition entitled in the cause, signed and verified by the applicant, and setting forth the facts and circumstances making such appointment necessary or proper.

Sec. 24. Section 25-1102, Reissue Revised Statutes of Nebraska, is amended to read:

25-1102. An issue of fact arises ~~(1) upon material allegation in the petition denied by the answer, (2) upon a setoff or counterclaim presented in the answer and denied in the reply, and (3) upon material new matter in the answer or reply which shall be considered as controverted by the opposite party without further pleading upon a material allegation in a pleading that is denied by a responsive pleading or that is considered as denied or avoided because no responsive pleading is required or permitted.~~

Sec. 25. Section 25-1321, Reissue Revised Statutes of Nebraska, is amended to read:

25-1321. The complete record shall be made up from include the petition complaint, the process, the return, the pleadings subsequent thereto, reports, verdicts, orders, judgments, and all material acts and proceedings of the court. All + PROVIDED, however, that all journal entries and all such filings as are required to be entered in full in the appearance dockets, shall, by reference, be made a part of the complete record for all purposes, including the taxing of fees and costs, and need not be reentered in the making up of such record; but if the items of an account, or the copies of a paper attached to the pleadings, are voluminous, the court may order the record to be made by abbreviating the same, or by inserting a pertinent description thereof, or by omitting them entirely. Evidence must not be recorded introduced at any proceeding is not part of the complete record of the cause.

Sec. 26. Section 25-1506, Revised Statutes Supplement, 2000, 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 after the entry of such decree, whenever the defendant shall, within twenty days after the entry of such decree, file with the clerk of the court a written request for the same. If the defendant makes no such request within twenty days, the order of sale may issue immediately after the expiration thereof. As to any mortgage executed after September 28, 1959, if the original maturity of indebtedness secured by the mortgage is more than twenty years after the date of the filing of the ~~petition~~ complaint to foreclose the mortgage and 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~~ complaint, the stay period shall be six months.

Sec. 27. Section 25-1715, Reissue Revised Statutes of Nebraska, is amended to read:

25-1715. Costs may be allowed on a motion, ~~or demurrer,~~ in the discretion of the court or judge, not exceeding ten dollars, which shall be absolute against the losing party on such ~~demurrer or motion, except that + PROVIDED,~~ this provision shall not apply to verbal motions ~~and demurrer are tenus~~ during the course of the trial.

Sec. 28. Section 25-2002, Revised Statutes Supplement, 2000, is amended to read:

25-2002. The proceedings to vacate or modify the judgment or order on the grounds mentioned in subsection (4) of section 25-2001 shall be by ~~petition verified by affidavit~~ complaint, setting forth the judgment or order, the grounds to vacate or modify it, and the defense to the action, if the party applying was defendant. On such ~~petition~~ complaint a summons shall issue and be served as in the commencement of an action. Summons shall not issue in any case in which there is upon the minutes of the court, or among the files of the case, a waiver of error by the party or the party's attorney, unless the court or a judge thereof endorses upon the ~~petition~~ complaint

permission to issue such summons.

Sec. 29. Section 25-2005, Reissue Revised Statutes of Nebraska, is amended to read:

25-2005. A judgment shall not be vacated on motion or ~~petition~~ complaint, until it is adjudged that there is a valid defense to the action in which the judgment is rendered, or, if the plaintiff seeks its vacation, that there is a valid cause of action; and ~~where~~ when a judgment is modified, all liens and securities obtained under it shall be preserved to the modified judgment.

Sec. 30. Section 25-2124, Reissue Revised Statutes of Nebraska, is amended to read:

25-2124. In an action for the recovery of real property, it shall be sufficient if the ~~plaintiff~~ complaint states in ~~his~~ petition that ~~he~~ the plaintiff has a legal estate therein, and is entitled to the possession thereof, describing the same, and that the defendant unlawfully keeps ~~him~~ the plaintiff out of the possession. It shall not be necessary to state how the plaintiff's estate or ownership is derived.

Sec. 31. Section 25-2125, Reissue Revised Statutes of Nebraska, is amended to read:

25-2125. It shall be sufficient in such action if the ~~defendant~~ in ~~his~~ answer denies generally the title alleged in the ~~petition~~ complaint, or that ~~he~~ the defendant withholds possession, as the case may be; but if ~~he~~ the defendant denies the title of the plaintiff, possession by the defendant shall be taken as admitted. ~~Where he~~ If the defendant does not defend for the whole premises, the answer shall describe the particular part for which defense is made.

Sec. 32. Section 25-2137, Reissue Revised Statutes of Nebraska, is amended to read:

25-2137. All ~~petitions~~ complaints for the foreclosure or satisfaction of mortgages shall be filed in the district court where the mortgaged premises are situated.

Sec. 33. Section 25-2138, Reissue Revised Statutes of Nebraska, is amended to read:

25-2138. Whenever a ~~petition shall be~~ complaint is filed for the foreclosure or satisfaction of a mortgage, the court ~~shall have~~ has the power to decree a sale of the mortgaged premises, or such part thereof as may be sufficient to discharge the amount due on the mortgage, and the cost of suit.

Sec. 34. Section 25-2139, Reissue Revised Statutes of Nebraska, is amended to read:

25-2139. When a ~~petition shall be~~ complaint is filed for the satisfaction of a mortgage, the court ~~shall have~~ has the power only to decree and compel the delivery of the possession of the premises to the purchaser thereof.

Sec. 35. Section 25-2140, Reissue Revised Statutes of Nebraska, is amended to read:

25-2140. After ~~such~~ petition shall be a complaint for foreclosure or satisfaction of a mortgage is filed, while the same is pending, and after a decree is rendered thereon, no proceedings whatever shall be had at law for the recovery of the debt secured by the mortgage, or any part thereof, unless authorized by the court.

Sec. 36. Section 25-2142, Reissue Revised Statutes of Nebraska, is amended to read:

25-2142. Upon filing a ~~petition~~ complaint for the foreclosure or satisfaction of a mortgage, the complainant shall state therein whether any proceedings have been had at law for the recovery of the debt secured thereby, or any part thereof, and whether such debt, or any part thereof, has been collected and paid.

Sec. 37. Section 25-2143, Reissue Revised Statutes of Nebraska, is amended to read:

25-2143. If it ~~shall appear~~ appears that any judgment has been obtained in a suit at law for the money demanded by such ~~petition~~ complaint, or any part thereof, no proceedings shall be had in such case, unless to an execution against the property of the defendant in such judgment the sheriff or other proper officer ~~shall have~~ has returned that the execution is unsatisfied in whole or in part, and that the defendant has no property whereof to satisfy such execution except the mortgaged premises.

Sec. 38. Section 25-2148, Reissue Revised Statutes of Nebraska, is amended to read:

25-2148. Whenever a ~~petition shall be~~ complaint is filed for the satisfaction or foreclosure of any mortgage, upon which there ~~shall be~~ is due any interest on any portion or installment of the principal, and there ~~shall be~~ are other portions or installments to become due subsequently, the ~~petition~~

complaint shall be dismissed upon the defendant's bringing into court, at any time before the decree of sale, the principal and interest due, with costs.

Sec. 39. Section 25-2151, Reissue Revised Statutes of Nebraska, is amended to read:

25-2151. If, in the case mentioned in section 25-2150, there shall be any default subsequent to such decree in the payment of any portion or installment of the principal, or any interest due upon such mortgage, the court may, upon the ~~petition~~ complaint of the complainant, by a further order, founded upon such first decree, direct a sale of so much of the mortgaged premises to be made, under such decree, as will be sufficient to satisfy the amount so due, with the costs of such ~~petition~~ complaint and subsequent proceedings thereon, and the same proceedings may be had as often as a default shall happen.

Sec. 40. Section 25-2162, Reissue Revised Statutes of Nebraska, is amended to read:

25-2162. On the return day of the alternative writ, or such further day as the court may allow, the party on whom the writ shall have been served may show cause, by answer made, in the same manner as an answer to a ~~petition~~ complaint in a civil action.

Sec. 41. Section 25-2170, Reissue Revised Statutes of Nebraska, is amended to read:

25-2170. The ~~petition must~~ complaint shall describe the property, and the several interests and estates of the several joint owners, or lessees thereof, if known. All tenants in common, joint tenants, or lessees of any estate in land or interest therein, or of any mineral, coal, petroleum, or gas rights, may be compelled to make or suffer partition of such estate or estates in the manner hereinafter prescribed.

Sec. 42. Section 25-2171, Reissue Revised Statutes of Nebraska, is amended to read:

25-2171. If the number of shares or interests is known, but the owners thereof are unknown, or if there are, or are supposed to be, any interests which are unknown, contingent or doubtful, these facts ~~must~~ shall be set forth in the ~~petition~~ complaint with reasonable certainty.

Sec. 43. Section 25-2178, Reissue Revised Statutes of Nebraska, is amended to read:

25-2178. If the statements in the ~~petition and answers are not~~ complaint are not denied in the answer or contradicted in the manner aforesaid, ~~or~~ by the documentary proof exhibited, ~~as above required,~~ they shall be taken as true.

Sec. 44. Section 25-21,108, Reissue Revised Statutes of Nebraska, is amended to read:

25-21,108. If, in the proceedings in partition, judgment shall be entered directing partition, as provided in section 25-2179, the court shall, after partition or after the confirmation of the sale and the conveyance by the referee, determine a reasonable amount of attorney's fees to be awarded, ~~to the attorneys of record in the proceedings,~~ which amount shall be taxed as costs in the proceedings. If the shares confirmed by such judgment and the existence of all encumbrances of which the plaintiff had actual or constructive notice were accurately pleaded in the original ~~petition~~ complaint of the plaintiff, such attorney's fees ~~for the attorney~~ shall be awarded entirely to the attorney for the plaintiff; otherwise, the court shall order such fees for the attorneys to be divided among such of the attorneys of record in the proceedings as ~~shall~~ have filed pleadings upon which any of the findings in the judgment of partition are based. The court shall also determine and tax as costs a reasonable fee for the referee.

Sec. 45. Section 25-21,113, Reissue Revised Statutes of Nebraska, is amended to read:

25-21,113. In all actions to establish or quiet title to an estate in real estate, all persons in whose favor any interest, right, title, estate in, or lien upon such real estate appears of record shall be made defendants by the names by which they are designated on the record. When it is alleged in the ~~petition~~ complaint that there are persons who claim or appear to have some interest in, right or title to, or lien upon such property, and that the ownership of, interest in, right or title to, or lien upon such property of such persons does not appear of record in or by their respective names in the county wherein such property is situated, and that the plaintiff, after diligent investigation and inquiry, is unable to ascertain and does not know the names or whereabouts, if in this state, or the residence of such persons, there shall also be designated as defendants in such action "all persons having or claiming any interest in" (here inserting an accurate and definite description of the property involved) followed by the words "real names unknown". Judgments and decrees rendered in such actions after the

defendants so impleaded and designated have been served as provided by statute, shall be conclusive against all defendants impleaded and designated by name, and also against all persons who are not in actual possession of such property, whose ownership of, interest in, rights or title to, or lien upon such property does not appear of record in or by their respective names in the county wherein such property is situated.

Sec. 46. Section 25-21,115, Reissue Revised Statutes of Nebraska, is amended to read:

25-21,115. It shall be sufficient to allege generally in the ~~petition~~ complaint that the defendants claim or appear to have some interest in, right or title to, or lien upon ~~said~~ the real estate or a part thereof; and it ~~shall not be~~ is not necessary to allege the nature of any adverse claim or that the value of plaintiff's title or estate is lessened thereby. No lien of record or mortgage of record, however, shall be affected by such action unless it is particularly described, and payment or other legal reason for its cancellation, or that it is barred by limitation, is specifically alleged.

Sec. 47. Section 25-21,124, Reissue Revised Statutes of Nebraska, is amended to read:

25-21,124. Such information shall consist of a plain statement of the facts which constitute the grounds of the proceeding, addressed to the court, which shall stand for an original ~~petition~~ complaint.

Sec. 48. Section 25-21,134, Reissue Revised Statutes of Nebraska, is amended to read:

25-21,134. When an information is upon the relation of a private individual, it shall be so stated in the ~~petition~~ complaint and proceedings, and such individual shall be responsible for costs in case they are not adjudged against the defendant. In other cases the title of the cause shall be the same as in a criminal prosecution, and the payment of costs shall be regulated by the same rule.

Sec. 49. Section 25-21,156, Reissue Revised Statutes of Nebraska, is amended to read:

25-21,156. Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by ~~petition~~ complaint to a court having jurisdiction to grant the relief. If the application ~~be~~ is deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree to show cause why further relief should not be granted forthwith.

Sec. 50. Section 25-21,202, Reissue Revised Statutes of Nebraska, is amended to read:

25-21,202. The claimant shall, in all cases, file a ~~petition~~ complaint setting forth (1) the facts out of which ~~his~~ the claim originally arose; (2) the action of the Legislature, or of any department of the government thereon, if any such has been had; (3) what person or persons is the owner or are the owners thereof, or in anywise interested therein; (4) that no assignment or transfer of the same, or any part thereof, or interest therein, has been made, except as stated in the ~~petition~~ complaint; and (5) that the claimant is justly entitled to the amount claimed therein from the state after allowance of all just credits and setoffs. ~~The petition shall be verified as now required in civil actions in the district courts.~~

Sec. 51. Section 25-21,206, Reissue Revised Statutes of Nebraska, is amended to read:

25-21,206. The state may be sued in the district court of ~~the county wherein the capital is situated~~ Lancaster County in any matter founded upon or growing out of a contract, express or implied, originally authorized or subsequently ratified by the Legislature, or founded upon any law of the state. The ~~petition~~ complaint in such a case shall be as provided in section 25-21,202, summons shall issue and be served in the same manner as ~~hereinbefore~~ provided, and the in section 25-21,203. The rules of pleading and practice in regard to other civil actions in the district court shall be observed in all actions by or against the state, as far as applicable except as otherwise ~~herein~~ provided, PROVIDED, that when in sections 25-21,201 to 25-21,218. If an action has been is commenced in a county other than as specified ~~herein~~ in this section or section 25-21,203, the court in which the action has been commenced shall have jurisdiction over such action, but upon timely motion by a defendant, the court shall transfer the action to the proper court in the county in which the action should or might have been commenced as ~~herein~~ provided in this section or section 25-21,203. The court in the county to which the action is transferred, in its discretion, may order the plaintiff to pay to the defendant all reasonable expenses, including ~~attorney~~ attorney's fees of the defendant or defendants, incurred because of the improper venue or in proceedings to transfer such action.

Sec. 52. Section 25-21,223, Reissue Revised Statutes of Nebraska, is amended to read:

25-21,223. The summons shall be issued and directed with a copy of the ~~petition~~ complaint attached to the summons, shall state the cause of the complaint, the time and place of trial of the action for possession, and the answer day for other causes of action, and shall notify the defendant that if he or she fails to appear judgment shall be entered against him or her. The summons may be served and returned as in other cases or by any person, except that the summons shall be served within three days, excluding Saturdays, Sundays, and holidays, from the date of its issuance and shall be returnable within five days, excluding Saturdays, Sundays, and holidays, from the date of its issuance. The person making the service shall file with the court an affidavit stating with particularity the manner in which he or she made the service. Trial of the action for possession shall be held not less than ten nor more than fourteen days after the date of issuance of the summons.

Sec. 53. Section 25-2210, Reissue Revised Statutes of Nebraska, is amended to read:

25-2210. On the appearance docket, the clerk of the district court shall enter all actions in the order in which they were brought, the date of the summons, the time of the return thereof by the officer and his or her return thereon, the time of filing the complaint or petition, and all subsequent pleadings. On the general index he or she shall enter the names of the parties to every suit, both direct and inverse, with the page and book where all proceedings in such action may be found. The judgment record shall contain the names of the judgment debtor and the judgment creditor, arranged alphabetically, the date of the judgment, the amount of the judgment, and the amount of costs, with the page and the book where the judgment may be found. Transcripts of judgments from county courts filed in the district court shall be entered upon the judgment record. Whenever any judgment is paid and discharged, the clerk shall enter such fact upon the judgment record in a column provided for that purpose.

Sec. 54. Section 25-2211, Reissue Revised Statutes of Nebraska, is amended to read:

25-2211. The trial docket shall be made out by the clerk of the court at least twelve days before the first day of each term of the court; and the actions shall be set for particular days in the order in which the issues were made up, whether of law or of fact, and so arranged that the cases set for each day shall be tried as nearly as may be on that day. For the purpose of arranging the docket, an issue shall be considered as made up when either party is in default of a pleading. If the defendant fails to answer, ~~or demurr~~, the cause for the purpose of this section shall be deemed to be at issue upon questions of fact, but in every such case the plaintiff may move for and take such judgment as he or she is entitled to, on the defendant's default, on or after the day on which ~~said~~ the action ~~shall be~~ is set for trial. No witnesses shall be subpoenaed in any case while the cause stands upon issue of law. ~~and whenever~~ Whenever the court ~~shall regard~~ regards the ~~demurrer~~ answer in any case as frivolous, and put in for delay only, no leave to answer or reply shall be given, unless upon payment of all costs then accrued in the action. ~~PROVIDED, when~~ When the number of actions to be docketed ~~shall exceed~~ exceeds three hundred, the judge or judges of the district court for the county may, by rule or order, classify them in such manner as they may deem expedient, and cause them to be placed according to such classifications upon different dockets; and the respective dockets may be proceeded with and causes thereon tried, heard, or otherwise disposed of, concurrently by one or more of the judges. ~~and provision~~ Provision may be made by rule of court that issues of fact shall not be for trial at any term when the number of pending actions ~~shall exceed~~ exceeds three hundred, except upon such previous notice of trial as may be prescribed thereby.

Sec. 55. Section 25-2221, Reissue Revised Statutes of Nebraska, is amended to read:

25-2221. Except as may be otherwise more specifically provided, the period of time within which an act is to be done in any action or proceeding shall be computed by excluding the day of the act, event, or default after which the designated period of time begins to run. The last day of the period so computed shall be included unless it is a Saturday, a Sunday, or a day during which the offices of courts of record may be legally closed as provided in this section, in which event the period shall run until the end of the next day on which the office will be open.

All courts and their offices may be closed on Saturdays, Sundays, and these holidays: New Year's Day, January 1; Birthday of Martin Luther King, Jr., the third Monday in January; President's Day, the third Monday in February; Arbor Day, the last Friday in April; Memorial Day, the last Monday

in May; Independence Day, July 4; Labor Day, the first Monday in September; Columbus Day, the second Monday in October; Veterans Day, November 11; Thanksgiving Day, the fourth Thursday in November; the day after Thanksgiving; ~~and~~ Christmas Day, December 25; and all days declared by law or proclamation of the Governor to be holidays. If any such holiday falls on Sunday, the following Monday shall be a holiday. If any such holiday falls on Saturday, the preceding Friday shall be a holiday. Court offices shall be open on all other days. If the date designated by the state for observance of any legal holiday pursuant to this section, except Veterans Day, is different from the date of observance of such holiday pursuant to a federal holiday schedule, the federal holiday schedule shall be observed.

Sec. 56. Section 25-2226, Reissue Revised Statutes of Nebraska, is amended to read:

25-2226. The words found in Chapter 25 ~~this code~~ shall be construed and held to mean as follows: Complainant ~~shall mean~~ means plaintiff; bill ~~or complaint shall mean~~ petition means complaint; suit ~~shall mean~~ means action or civil action; and decree ~~shall mean~~ means judgment; and all other words and terms found in ~~this code~~ Chapter 25, heretofore applicable to the chancery practice hereby repealed, shall be so construed and held as to carry out the intention of ~~this code~~ such chapter, prevent a failure of justice, and give adequate relief in all cases.

Sec. 57. Section 25-2704, Revised Statutes Supplement, 2000, is amended to read:

25-2704. In any civil action in county court, the summons, pleadings, and time for filings shall be the same as provided for civil actions in district court. ~~The summons shall be returnable twenty days after the date of issue as provided in section 25-507.01. The answer or demurrer of the defendant shall be filed within thirty days after service of the summons and petition or completion of service by publication, whichever is later, as provided in section 25-821. The reply or demurrer of the plaintiff shall be filed within fifteen days after the filing of the answer as provided in section 25-821. The court, for good cause shown, may extend the time for filing an answer or reply. The~~ A case shall stand for trial at the earliest available time on the court docket after the issues therein are or, according to the times fixed for pleading, should have been made up.

Sec. 58. Section 25-2805, Revised Statutes Supplement, 2000, is amended to read:

25-2805. All matters in the Small Claims Court shall be tried to the court without a jury. Except as provided in section 25-2618.01, any defendant in an action or such defendant's attorney may transfer the case to the regular docket of the county court by giving notice to the court at least two days prior to the time set for the hearing. Upon such notice the case shall be transferred to the regular docket of the county court. At the same time as such notice is given to transfer the case, any defendant or such defendant's attorney may demand trial by jury, and the Small Claims Court shall forward the demand to the county court. The party causing the transfer of a case from the Small Claims Court to the regular docket shall pay as a fee the difference between the fee for filing a claim in Small Claims Court and the fee for filing a claim on the regular docket.

In any action transferred to the regular docket there shall be no further pleadings, ~~demurrers~~, motions challenging pleadings, or discovery unless ordered by the court upon a showing that any such procedure is necessary to the prompt and just determination of the action.

Sec. 59. Section 25-2924, Revised Statutes Supplement, 2001, is amended to read:

25-2924. (1) Settlement escrow is a one-time, voluntary process by which the parties to an action seek to resolve their dispute. The settlement escrow process may be initiated at any time before trial by either party. The use of a settlement escrow does not preclude the use of any other dispute resolution or settlement process to which the parties may agree.

(2) Settlement escrow may only be used in district court civil actions that involve only monetary remedies. Such remedies may include, but are not limited to, damages, court costs, and attorney's fees.

(3) If a settlement escrow is conducted and fails to result in a settlement, the parties may not initiate a second settlement escrow for the same action.

Sec. 60. Section 25-2925, Revised Statutes Supplement, 2001, is amended to read:

25-2925. Subsequent to the initial filing of a district court civil action involving only monetary remedies, ~~the parties to an action shall receive from the clerk of the court information regarding settlement escrow.~~ A party to an action wishing to initiate a settlement escrow shall notify

the escrow agent in writing. Upon receiving a written request from the initiating party, the escrow agent shall contact the responding party in writing to see whether or not the responding party also wishes to participate. If both parties agree in writing to participate, the escrow agent shall begin the settlement escrow. ~~Failure to agree to initiate a settlement escrow does not preclude an agreement by the parties to initiate a settlement escrow at a later time.~~

Sec. 61. Section 25-2928, Revised Statutes Supplement, 2001, is amended to read:

25-2928. The State Court Administrator's office shall create all forms and worksheets used by escrow agents. ~~and the information regarding settlement escrow that is distributed by the clerks of the courts.~~ The office shall train all escrow agents on settlement escrow. Escrow agents shall complete settlement escrow training conducted by the office prior to conducting a settlement escrow.

Sec. 62. Sections 25-2922 to 25-2928 terminate on July 1, 2004.

Sec. 63. Section 29-2709, Revised Statutes Supplement, 2001, is amended to read:

29-2709. When any costs in misdemeanor, traffic, felony preliminary, or juvenile cases in county court, except for those costs provided for in subsection (3) of section 24-703 and two dollars of the fee provided in section 33-107.01, are found by a county judge to be uncollectible for any reason, including the dismissal of the case, such costs shall be deemed waived unless the judge, in his or her discretion, enters an order assessing such portion of the costs as by law would be paid over by the court to the State Treasurer as follows:

(1) In all cases brought by or with the consent of the county attorney, all such uncollectible costs shall be certified by the clerk of the court to the county clerk who shall present the bills therefor to the county board. The county board shall pay from the county general fund all such bills found by the board to be lawful; and

(2) In all cases brought under city or village ordinance, all such uncollectible costs shall be certified to the appropriate city or village officer authorized to receive claims who shall present the bills therefor to the governing body of the city or village in the same manner as other claims. Such governing body shall pay from the general fund of the city or village all such bills as are found to be lawful.

Sec. 64. Section 29-3920, Reissue Revised Statutes of Nebraska, is amended to read:

29-3920. The Legislature finds that:

(1) County property owners should be given some relief from the obligation of providing mandated indigent defense services which in most instances are required because of state laws establishing crimes and penalties;

(2) Property tax relief can be accomplished if the state begins to assist the counties with the obligation of providing indigent defense services required by state laws establishing crimes and penalties;

(3) Property tax relief in the form of state assistance to the counties of Nebraska in providing for indigent defense services will also increase accountability because the state, which is the governmental entity responsible for passing criminal statutes, will likewise be responsible for paying some of the costs;

(4) Property tax relief in the form of state assistance to the counties of Nebraska in providing for indigent defense services will also improve inconsistent and inadequate funding of indigent defense services by the counties;

(5) Property tax relief in the form of state assistance to the counties of Nebraska in providing for indigent defense services will also lessen the impact on county property taxpayers of the cost of a high profile death penalty case which can significantly affect the finances of the counties; and

(6) To accomplish property tax relief in the form of the state assisting the counties of Nebraska in providing for indigent defense services, the County Revenue Assistance Commission on Public Advocacy Operations Cash Fund should be established to fund the operation of the Commission on Public Advocacy.

Sec. 65. Section 29-3921, Revised Statutes Supplement, 2001, is amended to read:

29-3921. The County Revenue Assistance Commission on Public Advocacy Operations Cash Fund is created. The fund shall be used for the operations of the commission. The fund shall consist of ~~money appropriated from the General Fund~~ and money remitted pursuant to section 29-3931. Any

money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Any money in the County Revenue Assistance Fund on the operative date of this section shall be transferred to the Commission on Public Advocacy Operations Cash Fund.

Sec. 66. Section 29-3927, Revised Statutes Supplement, 2001, is amended to read:

29-3927. (1) With respect to its duties under section 29-3923, the commission shall:

(a) Adopt and promulgate rules and regulations for its organization and internal management and rules and regulations governing the exercise of its powers and the fulfillment of its purpose;

(b) Appoint and abolish such advisory committees as may be necessary for the performance of its functions and delegate appropriate powers and duties to them;

(c) Accept and administer loans, grants, and donations from the United States and its agencies, the State of Nebraska and its agencies, and other sources, public and private, for carrying out the functions of the commission;

(d) Enter into contracts, leases, and agreements necessary, convenient, or desirable for carrying out its purposes and the powers granted under this section with agencies of state or local government, corporations, or persons;

(e) Acquire, hold, and dispose of personal property in the exercise of its powers;

(f) Provide legal services to indigent persons through the divisions in section 29-3930; and

(g) Adopt guidelines and standards, which are recommended to the commission by the council, for county indigent defense systems, including, but not limited to, standards relating to the following: The use and expenditure of funds in the County Revenue Assistance Fund appropriated by the Legislature to reimburse counties which qualify for reimbursement; attorney eligibility and qualifications for court appointments; compensation rates for salaried public defenders, contracting attorneys, and court-appointed attorneys and overall funding of the indigent defense system; maximum caseloads for all types of systems; systems administration, including rules for appointing counsel, awarding defense contracts, and reimbursing defense expenses; conflicts of interest; continuing legal education and training; and availability of supportive services and expert witnesses.

(2) The standards adopted by the commission under subdivision (1)(g) of this section are intended to be used as a guide for the proper methods of establishing and operating indigent defense systems. The standards are not intended to be used as criteria for the judicial evaluation of alleged misconduct of defense counsel to determine the validity of a conviction. They may or may not be relevant in such judicial evaluation, depending upon all the circumstances.

(3) With respect to its duties related to the provision of civil legal services to eligible low-income persons, the commission shall have such powers and duties as described in sections 25-3001 to 25-3004.

Sec. 67. Section 29-3931, Revised Statutes Supplement, 2001, is amended to read:

29-3931. (1) In cases in which the capital litigation division or appellate division has been appointed, the chief counsel shall make a showing to the county or district court for the county in which the prosecution arose regarding the commission's cost of defense. The chief counsel shall consider the complexity of the case, the amount of expenses involved, and the ability of the county to pay the costs, in determining how often to make a showing to the court. A showing shall be made no more than once a month and shall be made once after the case is completed. The cost shall be based upon (a) the actual time spent by commission staff attorneys and their hourly rates of pay, including benefits, (b) a reasonable amount for administrative and support staff time, (c) the actual expenditures for litigation support, such as expert witnesses, depositions, photocopying, printing, and travel and lodging expenses, and (d) a reasonable amount for office overhead, including rent, telephone, and utilities. The cost of defense shall not include any expense incurred by the commission's staff for travel time or mileage between the commission's office and the place where the particular case's venue is had or for lodging and meals when the staff must be away from the office for more than one day. After a hearing, the county or district court shall order the county to pay one-third of the commission's cost of defense. The county shall pay the costs to the commission which shall remit the amount to the State Treasurer for credit to the County Revenue Assistance Commission on Public

Advocacy Operations Cash Fund. In cases in which commission staff is using money to represent indigent clients and that money is associated with any federal grant money or state match money, the chief counsel shall only bill counties for actual expenditures for litigation support, such as expert witnesses, depositions, photocopying, printing, and travel and lodging expenses.

(2) In cases under the DNA Testing Act, costs shall be paid as provided in such act.

Sec. 68. Section 29-3932, Revised Statutes Supplement, 2001, is amended to read:

29-3932. (1) The Indigent Defense Standards Advisory Council is created. The council shall consist of seven members, including the elected public defenders for Douglas County and Lancaster County, the chief counsel, and four members who have substantial experience in providing indigent defense services either as a public defender, contracting attorney, or court-appointed attorney and who are nominated by the Nebraska Criminal Defense Attorneys Association and appointed by the commission. The four members who are appointed by the commission shall serve a ~~term~~ terms of four years, except that, of the members first appointed, one member shall serve a term of one year, one member shall serve a term of two years, one member shall serve a term of three years, and one member shall serve a term of four years. A member may be reappointed at the expiration of his or her term. Any vacancy occurring other than by expiration of a term shall be filled for the remainder of the unexpired term in the same manner as the original appointment. The council shall select one of its members as chairperson.

(2) Notwithstanding any other provision of law, membership on the council shall not disqualify any member from holding his or her office or position or cause the forfeiture thereof.

(3) Members of the council shall serve without compensation, but they shall be entitled to reimbursement for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(4) The council shall be responsible for developing and recommending to the commission guidelines and standards for county indigent defense systems, including, but not limited to, standards relating to the following: The use and expenditure of funds in the County Revenue Assistance Fund appropriated by the Legislature to reimburse counties which qualify for reimbursement; attorney eligibility and qualifications for court appointments; compensation rates for salaried public defenders, contracting attorneys, and court-appointed attorneys and overall funding of the indigent defense system; maximum caseloads for all types of systems; systems administration, including rules for appointing counsel, awarding defense contracts, and reimbursing defense expenses; conflicts of interest; continuing legal education and training; and availability of supportive services and expert witnesses.

Sec. 69. Section 29-3933, Revised Statutes Supplement, 2001, is amended to read:

29-3933. (1) Any county which intends to request reimbursement for a portion of its expenditures for its indigent defense system must comply with this section.

(2) ~~On or before May 15 of~~ In order to assist the Commission on Public Advocacy in its budgeting process for determining future reimbursement amounts, after July 1, 2002, and before July 15, 2002, and for each year thereafter in which the county intends to seek reimbursement for a portion of its expenditures for indigent defense services in felony cases for the next fiscal year, the county shall present to the Commission on Public Advocacy (a) a plan, in a format approved by the commission, describing how the county intends to provide indigent defense services in felony cases, (b) a statement of intent declaring that the county intends to comply with the standards set by the commission for felony cases and that the county intends to apply for reimbursement, and (c) a projection of the total dollar amount of expenditures for that county's indigent defense services in felony cases for the next fiscal year.

(3) The commission may conduct whatever investigation is necessary and may require certifications by key individuals in the criminal justice system, in order to determine if the county is in compliance with the standards. If a county is certified by the commission as having met the standards established by the commission for felony cases, the county shall be eligible for reimbursement according to the following schedule and procedures: The county clerk of the county seeking reimbursement may submit, on a quarterly basis, a certified request to the commission, for reimbursement from the County Revenue Assistance Fund funds appropriated by the Legislature, for an amount equal to one-fourth of the county's actual expenditures for indigent defense services in felony cases.

(4) Upon certification by the county clerk of the amount of the expenditures, and a determination by the commission that the request is in compliance with the standards set by the commission for felony cases, the commission shall quarterly authorize an amount of reimbursement to the county as set forth in this section.

(5) If the ~~General Funds~~ appropriated funds are insufficient in any quarter to meet the amount needed for full payment of all county reimbursements for net expenditures that are certified for that quarter, the commission shall pay the counties their pro rata share of the remaining funds based upon the percentage of the county's certified request in comparison to the total certified requests for that quarter.

(6) For purposes of section 13-519, for any year in which a county first seeks reimbursement from ~~the County Revenue Assistance Fund~~ funds appropriated by the Legislature or has previously qualified for reimbursement and is seeking additional reimbursement for improving its indigent criminal defense program, the last prior year's total of restricted funds shall be the last prior year's total of restricted funds plus any increased amount budgeted for indigent defense services that is required to develop a plan and meet the standards necessary to qualify for reimbursement of expenses from ~~the County Revenue Assistance Fund~~ funds appropriated by the Legislature.

Sec. 70. Section 29-4121, Revised Statutes Supplement, 2001, is amended to read:

29-4121. The cost of DNA testing ordered under subsection (5) of section 29-4120 shall be paid by the person filing the motion, unless the court determines such person to be indigent. If the person filing such motion is determined by the court to be indigent, the costs shall be paid by the state in the following manner:

(1) If the Commission on Public Advocacy has been appointed to represent the person filing the motion, as determined under section 29-4122, the costs of testing shall be paid by the commission from ~~the County Revenue Assistance Fund~~ funds appropriated by the Legislature; and

(2) If the Commission on Public Advocacy has not been appointed to represent the person filing the motion, the court shall hold a hearing to determine the costs for DNA testing. The court shall order the commission to pay such costs. The order shall be forwarded by the clerk of the court to the commission, along with copies of all invoices for such DNA testing. Upon receipt, the commission shall pay such costs from ~~the County Revenue Assistance Fund~~ funds appropriated by the Legislature.

Sec. 71. Section 29-4122, Revised Statutes Supplement, 2001, is amended to read:

29-4122. Upon a showing by the person that DNA testing may be relevant to the person's claim of wrongful conviction, the court shall appoint counsel for an indigent person as follows:

(1) The court shall first contact the chief counsel for the Commission on Public Advocacy to inquire if the commission is able to accept the appointment. If the chief counsel determines that the commission can accept the appointment, then the court shall appoint the commission pursuant to the County Revenue Assistance Act; and

(2) If the chief counsel declines the appointment because of a conflict of interest or the case would exceed the caseload standards set by the commission, then the court shall appoint an attorney licensed to practice law in this state with at least five years experience in felony litigation to represent the indigent person at all stages of the proceedings. Counsel appointed under this subdivision, other than the public defender, shall obtain leave of court before proceeding beyond an initial direct appeal to either the Court of Appeals or the Supreme Court to any further direct, collateral, or postconviction appeals to state or federal courts. Counsel appointed under this subdivision shall file an application for fees and expenses in the district court which appointed him or her for all fees and expenses reasonable necessary to permit him or her to effectively and competently represent the client. The court, upon hearing the application, shall fix reasonable attorney's fees and expenses. The court's order shall require that such fees and expenses be paid by the Commission on Public Advocacy from ~~the County Revenue Assistance Fund~~ funds appropriated by the Legislature. Upon receipt of the order, the commission shall pay such fees and expenses in the full amount determined by the court.

Sec. 72. Section 33-107.01, Reissue Revised Statutes of Nebraska, is amended to read:

33-107.01. A legal services fee of ~~two~~ five dollars shall be taxed as costs in each case filed in each separate juvenile court and district court, including appeals to such courts, and on each case filed in each county court except those filed in county court pursuant to its jurisdiction under

subdivision (5) of section 24-517 or section 25-2802. A legal services fee of ~~two~~ five dollars shall be taxed as costs for each appeal and original action filed in the Court of Appeals and the Supreme Court. Such fees shall be remitted to the State Treasurer on forms prescribed by the State Treasurer within ten days after the close of each month for credit to the Legal Aid and Services Fund.

Sec. 73. Section 42-351, Reissue Revised Statutes of Nebraska, is amended to read:

42-351. (1) In proceedings under sections 42-347 to 42-381, the court shall have jurisdiction to inquire into such matters, make such investigations, and render such judgments and make such orders, both temporary and final, as are appropriate concerning the status of the marriage, the custody and support of minor children, the support of either party, the settlement of the property rights of the parties, and the award of costs and attorney's fees.

(2) When final orders relating to proceedings governed by sections 42-347 to 42-381 are on appeal and such appeal is pending, the court that issued such orders shall retain jurisdiction to provide for such orders regarding custody, visitation, or support, orders shown to be necessary to allow the use of property or to prevent the irreparable harm to or loss of property during the pendency of such appeal, or other appropriate orders in aid of the appeal process. Such orders shall not be construed to prejudice any party on appeal.

Sec. 74. Section 44-2833, Reissue Revised Statutes of Nebraska, is amended to read:

44-2833. (1) If the insurer of a health care provider shall agree to settle its liability on a claim against its insured by payment of its policy limits of two hundred thousand dollars and the claimant shall demand an amount in excess thereof for a complete and final release and if no other health care provider is involved, the procedures prescribed in this section shall be followed.

(2) A petition motion shall be filed by the claimant with the court in which the action is pending against the health care provider or, if no action is pending, the claimant shall file a complaint in one of the district courts of the State of Nebraska, seeking approval of an agreed settlement, if any, or demanding payment of damages from the Excess Liability Fund.

(3) A copy of such petition motion or complaint shall be served on the director, the health care provider, and the health care provider's insurer and shall contain sufficient information to inform the parties concerning the nature of the claim and the additional amount demanded. The health care provider and his or her insurer shall have a right to intervene and participate in the proceedings.

(4) The director, with the consent of the health care provider, may agree to a settlement with the claimant from the Excess Liability Fund. Either the director or the health care provider may file written objections to the payment of the amount demanded. The agreement or objections to the payment demanded shall be filed within twenty days after the petition motion or complaint is filed.

(5) After the petition motion or complaint, agreement, and objections, if any, have been filed, the judge of the court in which such petition is filed shall set the matter for trial as soon as practicable. The court shall give notice of the trial to the claimant, the health care provider, and the director.

(6) At the trial, the director, the claimant, and the health care provider may introduce relevant evidence to enable the court to determine whether or not the petition settlement should be approved if it has been submitted on agreement without objections. If the director, the health care provider, and the claimant shall be unable to agree on the amount, if any, to be paid out of the Excess Liability Fund, the amount of claimant's damages, if any, in excess of the two hundred thousand dollars already paid by the insurer of the health care provider shall be determined at trial.

(7) The court shall determine the amount for which the fund is liable and render a finding and judgment accordingly. In approving a settlement or determining the amount, if any, to be paid from the Excess Liability Fund in such a case, the court shall consider the liability of the health care provider as admitted and established by evidence.

(8) Any settlement approved by the court may not be appealed. Any judgment of the court fixing damages recoverable in any such contested proceeding shall be appealable pursuant to the rules governing appeals in any other civil case.

Sec. 75. Section 44-2840, Reissue Revised Statutes of Nebraska, is amended to read:

44-2840. (1) Provision is hereby made for the establishment of medical review panels to review all malpractice claims against health care providers covered by the Nebraska Hospital-Medical Liability Act in advance of filing such actions.

(2) No action against a health care provider may be commenced in any court of this state before the claimant's proposed ~~petition~~ complaint has been presented to a medical review panel established pursuant to section 44-2841 and an opinion has been rendered by the panel.

(3) The proceedings for action by the medical review panel shall be initiated by the patient or his or her representative by notice in writing with copy of a proposed ~~petition~~ or complaint served upon the director personally or by registered or certified mail. Such notice shall designate the claimant's choice of the physician to serve on the panel, claimant's suggestion of an attorney to serve, and the court where the action shall be filed, if necessary.

(4) The claimant may affirmatively waive his or her right to a panel review, and in such case the claimant may proceed to file his or her action directly in court. If the claimant waives the panel review, the claimant shall serve a copy of the ~~petition~~ or complaint upon the director personally or by registered or certified mail at the time the action is filed in court.

(5) The exercise of the waiver authorized by this section shall not be subject to attack for the sole reason that the claimant served the director with the notice prescribed by subsection (3) of this section prior to July 10, 1984, if the requirements of sections 44-2840 to 44-2847 have not been fulfilled on such date.

Sec. 76. Section 44-2841, Reissue Revised Statutes of Nebraska, is amended to read:

44-2841. (1) The medical review panel shall consist of one attorney admitted to practice law in the State of Nebraska and three physicians who hold unlimited licenses under the laws of this state to practice medicine. The attorney shall act in an advisory capacity and as chairperson of the panel, but shall have no vote.

(2) The medical review panel shall be selected in the following manner:

(a) All physicians engaged in the active practice of medicine in this state, whether in the teaching profession or otherwise, who hold a license to practice medicine shall be available for selection;

(b) Each party to the action shall have the right to select one physician and, upon selection, such physician shall be required to serve. The two physicians thus selected shall select the third physician panelist. If one of the health care providers involved is a hospital, a fourth panelist shall be selected who shall be a hospital administrator selected by the hospital;

(c) When there are multiple plaintiffs or defendants, there shall be only one physician or hospital administrator selected per side. The plaintiff, whether single or multiple, shall have the right to select one physician and the defendant, whether single or multiple, shall have the right to select one physician;

(d) A panelist so selected shall serve, except that for good cause shown he or she may be excused. To show good cause for relief from serving, the panelist shall be required to serve an affidavit upon a judge of a court having jurisdiction over the claim when filed. The affidavit shall set out the facts showing that service would constitute an unreasonable burden or undue hardship. The court may excuse the proposed panelist from serving;

(e) Within twenty days after receipt of notification of a proposed panelist by the plaintiff, the defendants shall select a proposed panelist and advise the plaintiff or his or her attorney;

(f) Within twenty days of receipt of notice of any selection, written challenge without cause may be made to the panel member. Upon challenge, a party shall select another panelist. If multiple plaintiffs or defendants are unable to agree on a physician panelist or if two such challenges are made and submitted, the judge shall submit a list consisting of three qualified panelists and each side shall strike one and the remaining member shall serve in place of the challenged panelist designated by the party; and

(g) The parties may agree on the attorney member of the board or, if no agreement can be reached, then five proposed attorney members shall be designated by the judge having jurisdiction of the cause. The parties shall then each strike two names alternately with the claimant striking first until both sides have stricken two names and the remaining name shall be the attorney member of the panel.

(3) If the members of the medical review panel have not been

selected within one hundred twenty days following filing of the ~~petition or~~ complaint required by section 44-2840, the court shall have authority to select members of the panel and to set a specific date for the hearing.

Sec. 77. Section 44-2842, Reissue Revised Statutes of Nebraska, is amended to read:

44-2842. (1) The evidence to be considered by the medical review panel shall be promptly submitted by the respective parties in written form only. If any party to the proceedings fails to submit his or her evidence within a reasonable time after notice from the panel requesting such evidence, the panel may proceed to decide the matter on the evidence previously submitted. The determination of reasonable time shall be made by the panel. The evidence submitted may consist of medical charts, X-rays, laboratory test results, excerpts of treatises, depositions of witnesses including parties, and any other form of evidence allowable by the medical review panel.

(2) Depositions of parties and witnesses may be taken prior to the convening of the panel and prior to the commencement of the action, but in such event the attorney for the medical care provider shall be furnished with a copy of the ~~petition~~ complaint which the claimant proposes to file at least ten days before any deposition is taken. The patient shall have the right to request and receive all medical and hospital records relating to his or her case which would be admissible in evidence in a court of law. The chairperson of the panel shall advise the panel relative to any legal question involved in the review proceeding and shall prepare the opinion of the panel. A copy of the evidence shall be sent to each member of the panel.

(3) Either party, after submission of all evidence and upon ten days' notice to the other side, shall have the right to convene the panel at a time and place agreeable to the members of the panel. At such time either party shall have the right to present argument concerning any matters relevant to issues to be decided by the panel before the issuance of its report. The chairperson of the panel shall preside at all meetings, which meetings shall be informal.

(4) If the members of the medical review panel have not convened within six months of the initiation of the proceeding, the judge shall have authority to order the panel to convene.

Sec. 78. Section 45-103, Revised Statutes Supplement, 2000, is amended to read:

45-103. ~~Interest~~ For decrees and judgments rendered before the operative date of this section, interest on decrees and judgments for the payment of money shall be fixed at a rate equal to one percentage point above the bond equivalent yield, as published by the Secretary of the Treasury of the United States, of the average accepted auction price for the last auction of fifty-two-week United States Treasury bills in effect on the date of entry of the judgment. For decrees and judgments rendered on and after the operative date of this section, interest on decrees and judgments for the payment of money shall be fixed at a rate equal to two percentage points above the bond investment yield, as published by the Secretary of the Treasury of the United States, of the average accepted auction price for the first auction of each annual quarter of the twenty-six-week United States Treasury bills in effect on the date of entry of the judgment. The State Court Administrator shall distribute notice of such rate and any changes to it to all Nebraska judges to be in effect two weeks after the date the auction price is published by the Secretary of the Treasury of the United States. This interest rate shall not apply to:

(1) An action in which the interest rate is specifically provided by law; or

(2) An action founded upon an oral or written contract in which the parties have agreed to a rate of interest other than that specified in this section.

Sec. 79. Section 60-4,105, Revised Statutes Supplement, 2000, is amended to read:

60-4,105. (1) Unless otherwise provided by statute, any person aggrieved by a final decision or order of the director or the Department of Motor Vehicles to cancel, suspend, revoke, or refuse to issue or renew any operator's license, any decision of the director made after consideration of advice from the Health Advisory Board, or suspension of an operator's license under the License Suspension Act may appeal to either the district court of the county in which the person originally applied for the license or the district court of the county in which such person resides or, in the case of a nonresident, to the district court of Lancaster County within thirty days after the date of the final decision or order.

(2) Summons shall be served on the department within thirty days after the filing of the petition in the manner provided for service of a

summons in section 25-510.02. Within thirty days after service of the petition and summons, the department shall prepare and transmit to the petitioner a certified copy of the official record of the proceedings before the department. The department shall require payment of a five-dollar fee prior to the transmittal of the official record. The petitioner shall file the transcript with the court ~~before answer day as provided in section 25-821~~ within fourteen days after receiving the transcript from the department.

(3) The district court shall hear the appeal as in equity without a jury and determine anew all questions raised before the director. Either party may appeal from the decision of the district court to the Court of Appeals.

(4) The appeal procedures described in the Administrative Procedure Act shall not apply to this section.

Sec. 80. Section 76-1002, Revised Statutes Supplement, 2000, is amended to read:

76-1002. (1) Transfers in trust of real property may be made to secure (a) existing debts or obligations created simultaneously with the execution of the trust deed, (b) future advances necessary to protect the security, (c) any future advances to be made at the option of the parties, or (d) the performance of an obligation of any other person named in the trust deed to a beneficiary.

(2) Future advances necessary to protect the security shall include, but not be limited to, advances for payment of real property taxes, special assessments, prior liens, hazard insurance premiums, maintenance charges imposed under a condominium declaration or other covenant, and costs of repair, maintenance, or improvements.

(3) (a) Except as provided in subdivision (b) of this subsection, all items identified in subsection (1) of this section are equally secured by the trust deed from the time of filing the trust deed as provided by law and have the same priority as the trust deed over the rights of all other persons who acquire any rights in or liens upon the trust property subsequent to the time the trust deed was filed.

(b) (i) The trustor or his or her successor in title may limit the amount of optional future advances secured by the trust deed under subdivision (a) of this subsection by filing a notice for record in the office of the register of deeds of each county in which the trust property or some part thereof is situated. A copy of such notice shall be sent by certified mail to the beneficiary at the address of the beneficiary set forth in the trust deed. The amount of such secured optional future advances shall be limited to not less than the amount actually advanced at the time of receipt of such notice by the beneficiary.

(ii) If any optional future advance is made by the beneficiary to the trustor or his or her successor in title after receiving written notice of the filing for record of any trust deed, mortgage, lien, or claim against such trust property, then the amount of such optional future advance shall be junior to such trust deed, mortgage, lien, or claim. The notice under this subdivision shall be sent by certified mail to the beneficiary at the address of the beneficiary set forth in the trust deed.

(iii) Subdivisions (b) (i) and (ii) of this subsection shall not limit or determine the priority of optional future advances as against construction liens governed by section 52-139.

(4) The reduction to zero or elimination of the obligation evidenced by any of the transfers in trust authorized by this section shall not invalidate the operation of this section as to any future advances unless a notice or release to the contrary is filed for record as provided by law. All right, title, interest, and claim in and to the trust property acquired by the trustor or his or her successors in interest subsequent to the execution of the trust deed shall inure to the trustee as security for the obligation or obligations for which the trust property is conveyed in like manner as if acquired before execution of the trust deed.

Sec. 81. Section 76-1441, Reissue Revised Statutes of Nebraska, is amended to read:

76-1441. The person seeking possession shall file a ~~petition~~ complaint for restitution with the clerk of the district or county court. The ~~petition~~ complaint shall contain (a) the facts, with particularity, on which he or she seeks to recover; (b) a reasonably accurate description of the premises; and (c) the requisite compliance with the notice provisions of the Uniform Residential Landlord and Tenant Act. The ~~petition~~ complaint may notify the tenant that personal property remains on the premises and that it may be disposed of pursuant to section 69-2308. The ~~petition~~ complaint may also contain other causes of action relating to the tenancy, but such causes of action shall be answered and tried separately, if requested by either party

in writing.

Sec. 82. Section 76-1442, Reissue Revised Statutes of Nebraska, is amended to read:

76-1442. The summons shall be issued and directed, with a copy of the ~~petition~~ complaint attached thereto, and shall state the cause of the complaint, the time and place of trial of the action for possession, answer day for other causes of action, and notice that if the defendant fails to appear judgment shall be entered against him or her. The summons may be served and returned as in other cases or by any person, except that the summons shall be served within three days, excluding Saturdays, Sundays, and holidays, from the date of issuance and shall be returnable within five days, excluding Saturdays, Sundays, and holidays, from the date of issuance. The person making the service shall file with the court an affidavit stating with particularity the manner in which he or she made the service. If diligent efforts have been made to serve the summons in the manner provided in sections 25-505.01 to 25-516.01 but such efforts were unsuccessful, the summons may be served in the manner provided in section 76-1442.01.

Sec. 83. Section 77-1904, Reissue Revised Statutes of Nebraska, is amended to read:

77-1904. ~~In all foreclosure proceedings, the plaintiff may include in one petition as many tax sale certificates, tax deeds, or tax liens as the plaintiff may hold, regardless of whether they are upon the same or different items of real property and whether the real property covered by them is owned by the same or different persons. It shall be sufficient, in the petition and in~~ In all foreclosure proceedings, including in the complaint, it is sufficient in such foreclosure suit, to designate the township, range, section, or part of section and the number and description of any lot or block by initial letters, abbreviations, and figures.

In describing improvements on leased land for such notice and proceedings, the words "Improvements Only Located Upon" shall precede the designation of such property as set out in this section.

Sec. 84. Section 77-1906, Reissue Revised Statutes of Nebraska, is amended to read:

77-1906. The plaintiff may also, if desired, include as or make the real property described in the ~~petition~~ complaint a defendant and, if the owners of any such real property are unknown and cannot be found, may proceed against the real property itself, but in such case the service shall be as in the case of an unknown defendant.

Sec. 85. Section 77-1917, Revised Statutes Supplement, 2000, is amended to read:

77-1917. Any person entitled to redeem real property may do so at any time after the decree of foreclosure and before the final confirmation of the sale by paying to the clerk of the district court the amount found due against the property, with interest and costs to the date of redemption and, in addition thereto, when the real property has been sold at sheriff's sale to a purchaser other than the plaintiff, any subsequent taxes paid by such purchaser, as shown by tax receipts filed by such purchaser with the clerk of the district court, with interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date or dates of payment of such taxes, and also interest on the purchase price at the same rate, for the use of the purchaser, from the date of sale to the date of redemption. During the pendency of a foreclosure action any person entitled to redeem any lot or parcel may do so by paying to the court the amount due with interest and costs, including attorney's fees, provided for in section 77-1909, if requested in the foreclosure ~~petition~~ complaint. Within thirty days after receipt of payment of all amounts due, the holder of the tax sale certificate shall dismiss its claim in the foreclosure proceeding with respect to any redeemed tax sale certificate. The holder of the tax sale certificate shall be required to provide the county treasurer with written notice that a foreclosure suit has been instituted and provide the county treasurer with an affidavit setting forth the costs incurred in the foreclosure action and indicating whether attorney's fees were requested in the foreclosure ~~petition~~ complaint.

The person redeeming any lot or parcel shall be required to provide the county treasurer with an appropriate receipt evidencing the payment to the court of the amount due with interest and costs and the holder of the tax sale certificate shall file with the county treasurer notice of its dismissal of the claim in the foreclosure proceeding.

Sec. 86. Section 81-1316, Revised Statutes Supplement, 2000, is amended to read:

81-1316. (1) All agencies and personnel of state government shall be covered by sections 81-1301 to 81-1319 and shall be considered subject to

the State Personnel System, except the following:

- (a) All personnel of the office of the Governor;
- (b) All personnel of the office of the Lieutenant Governor;
- (c) All personnel of the office of the Secretary of State;
- (d) All personnel of the office of the State Treasurer;
- (e) All personnel of the office of the Attorney General;
- (f) All personnel of the office of the Auditor of Public Accounts;
- (g) All personnel of the Legislature;
- (h) All personnel of the court systems;
- (i) All personnel of the Board of Educational Lands and Funds;
- (j) All personnel of the Public Service Commission;
- (k) All personnel of the Nebraska Brand Committee;
- (l) All personnel of the Commission of Industrial Relations;
- (m) All personnel of the State Department of Education;
- (n) All personnel of the Nebraska state colleges and the Board of Trustees of the Nebraska State Colleges;
- (o) All personnel of the University of Nebraska;
- (p) All personnel of the Coordinating Commission for Postsecondary Education;
- (q) All personnel of the Governor's Policy Research Office, but not to include personnel within the State Energy Office;
- (r) All personnel of the Commission on Public Advocacy;
- (s) All agency heads; and
- (t) ~~(s)~~ The Director of Medical Services established under section 83-125 and the chief executive officers of the Beatrice State Developmental Center, Lincoln Regional Center, Norfolk Regional Center, Hastings Regional Center, Grand Island Veterans' Home, Norfolk Veterans' Home, Thomas Fitzgerald Veterans' Home, and Western Nebraska Veterans' Home.

(2) At each agency head's discretion, up to the following number of additional positions may be exempted from the State Personnel System, based on the following agency size categories:

Number of Agency Employees	Number of Noncovered Positions
less than 25	0
25 to 100	1
101 to 250	2
251 to 500	3
501 to 1000	4
1001 to 2000	5
2001 to 3000	8
3001 to 4000	11
4001 to 5000	14
over 5000	17

The purpose of having such noncovered positions shall be to allow agency heads the opportunity to recruit, hire, and supervise critical, confidential, or policymaking personnel without restrictions from selection procedures, compensation rules, career protections, and grievance privileges. Persons holding the noncovered positions shall serve at the pleasure of the agency head and shall be paid salaries set by the agency head.

In no case shall a current state employee's career protections or coverage by personnel rules and regulations be revoked without the prior written agreement of such employee.

Sec. 87. The Revisor of Statutes shall assign section 1 of this act to Chapter 25, article 8, and section 2 of this act to Chapter 25, article 2.

Sec. 88. Sections 1, 4, 55, 59 to 63, 72, 73, 78, 80, and 89 of this act become operative three calendar months after adjournment of this legislative session. Sections 3, 64 to 71, 86 to 88, 91, and 93 of this act become operative on their effective date. The other sections of this act become operative on January 1, 2003.

Sec. 89. Original sections 24-209, 25-2221, 33-107.01, and 42-351, Reissue Revised Statutes of Nebraska, sections 45-103 and 76-1002, Revised Statutes Supplement, 2000, and sections 25-2924, 25-2925, 25-2928, and 29-2709, Revised Statutes Supplement, 2001, are repealed.

Sec. 90. Original sections 25-217, 25-318, 25-321, 25-323, 25-328, 25-330, 25-331, 25-501, 25-503.01, 25-504.01, 25-516.01, 25-531, 25-1002, 25-1063, 25-1064.01, 25-1075, 25-1085, 25-1102, 25-1321, 25-1715, 25-2005, 25-2124, 25-2125, 25-2137 to 25-2140, 25-2142, 25-2143, 25-2148, 25-2151, 25-2162, 25-2170, 25-2171, 25-2178, 25-21,108, 25-21,113, 25-21,115, 25-21,124, 25-21,134, 25-21,156, 25-21,202, 25-21,206, 25-21,223, 25-2210, 25-2211, 25-2226, 44-2833, 44-2840, 44-2841, 44-2842, 76-1441, 76-1442, 77-1904, and 77-1906, Reissue Revised Statutes of Nebraska, and sections 25-519, 25-525, 25-1506, 25-2002, 25-2704, 25-2805, 60-4,105, and 77-1917,

Revised Statutes Supplement, 2000, are repealed.

Sec. 91. Original section 29-3920, Reissue Revised Statutes of Nebraska, section 81-1316, Revised Statutes Supplement, 2000, and sections 13-518, 29-3921, 29-3927, 29-3931, 29-3932, 29-3933, 29-4121, and 29-4122, Revised Statutes Supplement, 2001, are repealed.

Sec. 92. The following sections are outright repealed: Sections 25-801 to 25-823, 25-832 to 25-838, 25-841 to 25-856, 25-2175, 77-1905, and 77-1907, Reissue Revised Statutes of Nebraska.

Sec. 93. Since an emergency exists, this act takes effect when passed and approved according to law.