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FLOOR DEBATE

February 26, 2004 LB 16  
LR 237, 240

PRESIDENT HEINEMAN: Thank you, Mr. Speaker. Before proceeding to the next item, while the Legislature is in session and capable of transacting business, I propose to sign and do sign LR 237 and LR 240. Next item, Mr. Clerk. Next item, Mr. Clerk.

ASSISTANT CLERK: Mr. President, the first bill on consent calendar this morning, LB 16. It's a bill offered by Senator Brashear. (Read title.) The bill was read for the first time on January 9, referred to the Business and Labor Committee. That committee reports the bill to General File.

PRESIDENT HEINEMAN: Chair would recognize Senator Brashear.

SENATOR BRASHEAR: Mr. President, members of the body, LB 16 would change the filing requirements for businesses engaged in rendering legal services as a profession. In 1999, the Nebraska Supreme Court adopted the limited liability professional organization rule. I'll refer to that as the rule. The rule enables law firms to organize as limited liability entities, which may include a corporation, a limited liability company, or a limited liability partnership. Under the rule, the court determines whether law firms may register as limited liability...as a limited liability entity. The court considers several factors, including whether all the attorneys in the firm are licensed to practice law in the state of Nebraska, and whether the firm has in place appropriate professional malpractice or professional negligence insurance coverage in order to protect the clients. The rule further requires that law firms are to furnish a certificate of authority from the court when the firm files with the Secretary of State as a limited liability entity. However, there is not presently a statutory duty on a law firm to file the certificate of authority with the Secretary of State when the firm registers as a business entity. Additionally, it is not clear that the Secretary of State can require a certificate of authority when a law firm does so register. Therefore, the potential exists that a law firm, whether foreign or domestic, and in this sense we're talking about within Nebraska or outside of Nebraska, could register as a limited liability organization with the Secretary of State, but not have received a certificate of authority from the court. The danger in this situation is that if malpractice