

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

March 30, 2004 LB 1047

business people, creditors in the bankruptcy, is not going to go to them? And so to the extent that with these particular assets that are the subject of her bill--life insurance, annuities, that kind of thing--to the extent that you allow that to be done in any amount at some period of time three years before the bankruptcy--and of course, nobody plans for bankruptcy, they just...nobody plans for bankruptcy, they just happen. But they can happen at any point in time. And oftentimes the bankrupt is innocent; oftentimes they're not. David Hunter with State Title here in Lincoln went bankrupt after he committed suicide. His wrongdoing had been going on for some time. And although it was a different sort of thing, insurance policies written with his wife as a beneficiary continued to benefit her and were not taken into the bankruptcy, for different reasons. It's only relevant to this particular case to indicate to you that there are certain sorts of things that can be used for good purposes, i.e., setting up a retirement account; the same thing can be used for bad purposes, i.e., a hedge against bankruptcy, and the cheating of creditors out of their due...out of their just rewards, out of their contract amounts. And so my problem with Senator Redfield's amendment is not what she's trying to do for the little person, but the fact that in my opinion she's opening up this big gap through which financial planners will inform well-to-do people that this is a good tool, because no matter what happens, your creditors can't get this. And I'm fearful that there will be people who will load into this, not to the extent of a modest retirement account, but to the extent, perhaps, of a very, very generous, a rich retirement account. Maybe they have 401s that are already exempt from bankruptcy, I believe. Then they could have these insurance policies. Then they could have annuity policies. And suddenly you discover that there will be a bankruptcy and, by golly, the guy that got out of the bankruptcy had \$1 million worth of creditors, but he got to keep \$1 million. That's the sort of situation that can evolve. These kinds of instruments I don't think are generally the instruments used by the lower half of our population, or most of the middle class, even. These are instruments that are most easily sold and most often sold to people who have the resources to engage in this kind of planning that is indeed a form of protecting yourself. But unless it's narrowly drafted, it allows you to protect yourself against small creditors, small