

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

April 7, 2004

LB 692

mean, you would have the judgment. You would have certain rights of execution, garnishment, foreclosure on property, and if you didn't want your property foreclosed upon because you had a going business, for example, and you wanted to preserve that and it made more sense if you could preserve your business and pay later. How would that be handled and what rights would a private judgment debtor have? And shouldn't the state be...put themselves in the same position, as much as possible, as what we believe to be fair for a private citizen judgment debtor? Senator Brashear.

SENATOR BRASHEAR: Senator Beutler, trying to...it's a big question; trying to keep it simple. I don't know exactly what the rate in 45-103 translates to, but the concept of it being a rate equal to one percentage point above the bond equivalent yield, that is what would apply upon a judgment that had been rendered by a Nebraska court as between citizen A and citizen B. If you didn't want to suffer the inconvenience or disaster of execution or levy, you...if...you would appeal and keep the judgment from becoming final, and this rate would accrue, and you would post a bond that would hold the citizens who had won the judgment, so to speak, harmless from your ultimate default, so they obtain the surety of payment and a market interest rate. Without taking too much of your time, that's one of the issues that applies in this instance. Because we're a state and we've waived sovereign immunity, and we don't want to have to post bonds, and we're deemed to be credit worthy, we don't have a supersedeas bond and we're going to place ourselves at the same rate. And again, I'm not trying to be a huge impediment to forward progress here. I'm just saying, however it goes tonight, I may revisit it because of what I think are the inequities of what we're doing as it relates to posting no bonds, making no provision to pay, and hanging our citizens who have a legitimate judgment out.

SENATOR BEUTLER: But how long can a private citizen refuse to pay off the principal of the judgment? I mean,...

SENATOR BRASHEAR: Well, you have...

SENATOR BEUTLER: ...they can't choose to go on forever just