

LEGISLATIVE BILL 598

Approved by the Governor May 10, 1995

Introduced by Lindsay, 9

AN ACT relating to civil procedure; to amend section 25-2729, Revised Statutes Supplement, 1994; to change provisions relating to appeals from the county court; and to repeal the original section.

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

Section 1. Section 25-2729, Revised Statutes Supplement, 1994, is amended to read:

25-2729. (1) In order to perfect an appeal from the county court, the appealing party shall within thirty days after the rendition of the judgment or making of the final order complained of:

(a) File with the clerk of the county court a notice of appeal; and

(b) Deposit with the clerk of the county court a docket fee in the amount of the filing fee in district court.

(2) Satisfaction of the requirements of subsection (1) of this section shall perfect the appeal and give the district court jurisdiction of the matter appealed.

(3) The time of rendition of a judgment or making of a final order is the time at which the action of the judge in announcing the judgment or final order is noted on the trial docket or, if the action is not noted on the trial docket, the time at which the journal entry of the action is signed by the judge and filed.

(4) The appealing party shall also within the time fixed by subsection (1) of this section:

(a) In matters arising under the Nebraska Probate Code only, when the appeal is by someone other than an executor, administrator, personal representative, conservator, trustee, guardian, or guardian ad litem, deposit with the clerk of the county court a cash bond or undertaking in such sum as the court shall direct, with at least one good and sufficient surety approved by the court, conditioned that the appellant will satisfy any judgment and costs that may be adjudged against him or her, including costs under subsection (2) of section 25-2737, unless the court directs that no cash bond or undertaking need be deposited; and

(b) In appeals from the Small Claims Court only, deposit with the clerk of the county court a cash bond or undertaking, with at least one good and sufficient surety approved by the court, in the amount of fifty dollars, conditioned that the appellant will satisfy any judgment and costs that may be adjudged against him or her.

(5) A notice of appeal or docket fee filed or deposited after the announcement of a decision or final order but before the rendition of the judgment or making of the final order shall be treated as filed or deposited after the rendition of the judgment or making of the final order and on the day thereof.

(6) The party appealing shall serve a copy of the notice of appeal upon all parties who have appeared in the action or upon their attorney of record. Proof of service shall be filed with the notice of appeal.

(7) If an appellant fails to comply with any provision of subsection (4) or (6) of this section, the district court on motion and notice may take such action, including dismissal of the appeal, as is just.

Sec. 2. Original section 25-2729, Revised Statutes Supplement, 1994, is repealed.