

AMENDMENTS TO LB1028

Introduced by Judiciary.

1           1. Strike the original sections and insert the following new  
2 sections:

3           Section 1. Section 24-1004, Reissue Revised Statutes of Nebraska, is  
4 amended to read:

5           24-1004 The Supreme Court shall provide by rule for the preservation  
6 of all records and of all exhibits offered or received in evidence in the  
7 trial of any action. When the records of the district court do not show  
8 any unfinished matter pending in the action, a judge of the district  
9 court if satisfied they are no longer valuable for any purpose may, upon  
10 such notice as the judge may direct, order the destruction, return, or  
11 other disposition of such exhibits as the judge he deems appropriate when  
12 approval is given by the State Records Administrator pursuant to the  
13 Records Management Act sections 84-1201 to 84-1220.

14          Sec. 2. Section 24-1005, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16          24-1005 The clerk of any district court or of any other court of  
17 record may maintain microfilm any court record as a preservation  
18 duplicate in the manner provided in section 84-1208. The original record  
19 may be destroyed only with the approval of the State Records  
20 Administrator pursuant to the Records Management Act sections 84-1201 to  
21 84-1220. The reproduction of the preservation duplicate microfilm shall  
22 be admissible as evidence in any court of record in the State of  
23 Nebraska.

24          Sec. 3. Section 25-1301, Revised Statutes Cumulative Supplement,  
25 2018, is amended to read:

26          25-1301 (1) A judgment is the final determination of the rights of  
27 the parties in an action.

1           (2) Rendition of a judgment is the act of the court, or a judge  
2 thereof, in signing a single written document stating all ~~an order~~ of the  
3 relief granted or denied in an action.

4           (3) The entry of a judgment, decree, or final order occurs when the  
5 clerk of the court places the file stamp and date upon the judgment,  
6 decree, or final order. For purposes of determining the time for appeal,  
7 the date stamped on the judgment, decree, or final order shall be the  
8 date of entry.

9           (4) The clerk shall prepare and maintain the records of judgments,  
10 decrees, and final orders that are required by statute and rule of the  
11 Supreme Court. Whenever any judgment is paid and discharged or when a  
12 satisfaction of judgment is filed, the clerk shall enter such fact upon  
13 the judgment index.

14           Sec. 4. Section 25-1301.01, Revised Statutes Cumulative Supplement,  
15 2018, is amended to read:

16           25-1301.01 Within three working days after the entry of any civil  
17 judgment or final order, except judgments by default when service has  
18 been obtained by publication or interlocutory orders styled as judgments,  
19 the clerk of the court shall send the judgment or final order by United  
20 States mail or by service through the court's electronic case management  
21 system to each party whose address appears in the records of the action  
22 or to the party's attorney or attorneys of record.

23           Sec. 5. Section 25-2804, Reissue Revised Statutes of Nebraska, is  
24 amended to read:

25           25-2804 (1) Actions in the Small Claims Court shall be commenced by  
26 the plaintiff by filing of a claim, ~~personally,~~ ~~or by mail,~~ or by another  
27 method established by Supreme Court rules ~~the plaintiff on a form~~  
28 ~~provided by the clerk of a county court. The claim form shall be executed~~  
29 ~~by the plaintiff in the presence of a judge, a clerk or deputy or~~  
30 ~~assistant clerk of a county court, or a notary public or other person~~  
31 ~~authorized by law to take acknowledgments. If not filed in person, the~~

1 ~~claim form and appropriate fees shall be mailed by the plaintiff to the~~  
2 ~~court of proper jurisdiction.~~

3 (2) At the time of the filing of the claim, the plaintiff shall pay  
4 a fee of six dollars and twenty-five cents to the clerk. One dollar and  
5 twenty-five cents of such fee shall be remitted to the State Treasurer  
6 for credit to the Nebraska Retirement Fund for Judges.

7 (3) Upon filing of a claim in the Small Claims Court, the court  
8 shall set a time for hearing and shall cause notice to be served upon the  
9 defendant. Notice shall be served not less than five days before the time  
10 set for hearing. Notice shall consist of a copy of the complaint and a  
11 summons directing the defendant to appear at the time set for hearing and  
12 informing the defendant that if he or she fails to appear, judgment will  
13 be entered against him or her. Notice shall be served in the manner  
14 provided for service of a summons in a civil action. If the notice is to  
15 be served by certified mail, the clerk shall provide the plaintiff with  
16 written instructions, prepared and provided by the State Court  
17 Administrator, regarding the proper procedure for service by certified  
18 mail. The cost of service shall be paid by the plaintiff, but such cost  
19 and filing fee shall be added to any judgment given the plaintiff.

20 (4) The defendant may file a setoff or counterclaim. Any setoff or  
21 counterclaim shall be filed and a copy delivered to the plaintiff at  
22 least two days prior to the time of trial. If the setoff or counterclaim  
23 exceeds the jurisdictional limits of the Small Claims Court as  
24 established pursuant to section 25-2802, the court shall cause the entire  
25 matter to be transferred to the regular county court docket and set for  
26 trial.

27 (5) No prejudgment actions for attachment, garnishment, replevin, or  
28 other provisional remedy may be filed in the Small Claims Court.

29 (6) All forms required by this section shall be prescribed by the  
30 Supreme Court. The claim form shall provide for the names and addresses  
31 of the plaintiff and defendant, a concise statement of the nature,

1 amount, and time and place of accruing of the claim, and an  
2 acknowledgment for use by the person in whose presence the claim form is  
3 executed and shall also contain a brief explanation of the Small Claims  
4 Court procedure and methods of appeal therefrom.

5 (7) For a default judgment rendered by a Small Claims Court (a) the  
6 default judgment may be appealed as provided in section 25-2807, (b) if a  
7 motion for a new trial, by the procedure provided in sections 25-1142,  
8 25-1144, and 25-1144.01, is filed ten days or less after entry of the  
9 default judgment, the court may act upon the motion without a hearing, or  
10 (c) if more than ten days have passed since the entry of the default  
11 judgment, the court may set aside, vacate, or modify the default judgment  
12 as provided in section 25-2720.01. Parties may be represented by  
13 attorneys for the purpose of filing a motion for a new trial or to set  
14 aside, vacate, or modify a default judgment.

15 Sec. 6. Section 29-2702, Reissue Revised Statutes of Nebraska, is  
16 amended to read:

17 29-2702 Every judge or clerk of court, upon receiving any money on  
18 account of forfeited recognizances, fines, or costs accruing or due to  
19 the county or state, shall pay the same to the treasurer of the proper  
20 county, except as may be otherwise expressly provided, within thirty ~~ten~~  
21 days from the time of receiving the same. When any money is paid to a  
22 judge or clerk of court on account of costs due to individual persons,  
23 the same shall be paid to the persons to whom the same are due upon  
24 demand ~~therefor~~.

25 Sec. 7. Original sections 24-1004, 24-1005, 25-2804, and 29-2702,  
26 Reissue Revised Statutes of Nebraska, and sections 25-1301 and  
27 25-1301.01, Revised Statutes Cumulative Supplement, 2018, are repealed.