

ONE HUNDRED SIXTH LEGISLATURE - FIRST SESSION - 2019
COMMITTEE STATEMENT
LB308

Hearing Date: Thursday March 21, 2019
Committee On: Judiciary
Introducer: Lathrop
One Liner: Change provisions relating to commencement of civil actions, voluntary appearances, and waivers of defenses

Roll Call Vote - Final Committee Action:
Advanced to General File

Vote Results:

Aye: 8 Senators Brandt, Chambers, DeBoer, Morfeld, Lathrop, Pansing Brooks, Wayne, Slama

Nay:

Absent:

Present Not Voting:

Oral Testimony:

Proponents:

Senator Steve Lathrop
Paul Rea
John Lenich

Representing:

Introducer
Bankruptcy Section of Nebraska State Bar Association
self

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB 308 amends the current section requiring service of process within 180 days by adding language to address situations where the civil action is stayed or enjoined. The measure requires service within 90 days after the stay or injunction is lifted if the defendant had not been served previously. If the defendant is not served within the time frame, the action is dismissed without prejudice by operation of law. The bill also adds language to a section regarding voluntary appearances by adding language that a suggestion of bankruptcy is not an appearance and does not waive personal jurisdiction, insufficiency of process or service of process objections.

Section 1 Amends section 25-217 to add new subsections (2) and (3) that provide each defendant in an action must be served within 180 days after the commencement of the action and if there is a stay or injunction, a defendant that was not served prior must be within 90 days after the stay or injunction is terminated (subsection (2)). Subsection (3) provides that if the defendant is not properly served within these time periods, the action against that defendant is dismissed without prejudice by operation of law.

Section 2 Amends section 25-516.01, regarding voluntary appearance, to add a subsection (3) that the filing of a suggestion of bankruptcy is not an appearance and does not waive claims of lack of personal jurisdiction and insufficiency of process or service of process.

Section 3 Repeals original sections.

Steve Lathrop, Chairperson