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Judiciary Committee
January 24, 2014

[LB693 LB775 LB780 LB796]

The Committee on Judiciary met at 1:30 p.m. on Friday, January 24, 2014, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB780, LB796, LB775, and LB693. Senators present: Brad Ashford, Chairperson; Steve Lathrop, Vice Chairperson; Mark Christensen; Colby Coash; Al Davis; Amanda McGill; and Les Seiler. Senators absent: Ernie Chambers.

SENATOR ASHFORD: Sorry, folks. Let's get started. Senator Wightman has the first bill, LB780, so...oh, you make it through there, the door there, Steve? Welcome.

SENATOR WIGHTMAN: Thank you.

SENATOR ASHFORD: Another tutorial is coming up. (Laugh)

SENATOR WIGHTMAN: (Exhibit 1) Good afternoon, Chairman Ashford and members of the Judiciary Committee. For the record, my name is John Wightman, spelled J-o-h-n, pretty uncommon spelling, Wightman, W-i-g-h-t-m-a-n. The Real Property Transfer on Death Act passed in 2012 and became effective January 1, 2013. In overview, this new law permits owners with interest in real estate to execute and record a transfer on death deed which enables an owner of real estate to pass the property to a beneficiary on the owner's death without the costs and delays of probate. During the owner's lifetime, the beneficiaries have no interest in the property and the owner retains full power to transfer or encumber the property or to revoke the TOD deed. I think it's being used quite a bit probably in cities, and out in farm country we don't see it all that much. LB780 is intended to simplify and reduce the costs of filing documents related to the death of a joint tenant or the holder of a life estate. Last year I brought to you LB345 to make fine-tuning changes to the transfer on death law, which included a provision to address administrative issues as requested by the Nebraska Association of County Officials. The register of deeds requested that two documents be filed to assist them to connect death certificates with transfer on death deeds at the death of the transferor, transfers as a result of the death of a joint tenant, transfers upon the death of a holder of a life estate. The death certificates are generally filed many years after the deed creating these transfers occurred and it was believed that the filing of these documents would facilitate the recording purposes. However, as with many laws, what may seem like a good idea at the time, the truth is in the implementation. Due to the complexity of one of the required forms, called a real estate transfer form, or a Form 521, and its possible legal implications, an attorney is often hired to fill out the form. In practice, the information required on the Form 521 is extensive, unnecessary, and does not expedite the process for two types of real estate filings. They are the transfers as a result of the death of a joint tenant, and transfers upon the death of the holder of a life estate. The filing of a real estate transfer form, or Form 521, should be eliminated except when a death certificate is filed in connection with a transfer on death deed, and this is pretty

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much thought uniformly I think throughout the state by registers of deeds and attorneys. LB780 also provides that a person who files a death certificate unrelated to a transfer on death deed does not need to file the specific cover sheet prescribed under the current law. LB780 will simplify the filing process, reduce paperwork, and save the public money. Please advance LB780. I'll try to answer any questions you have and thank you. [LB780]

SENATOR ASHFORD: And it's not necessary, because of the nature of the transfer, this...it's not necessary, this information would not be necessary because it's simply...for simply a life estate or... [LB780]

SENATOR WIGHTMAN: A regular life estate, not... [LB780]

SENATOR ASHFORD: Regular life estate or... [LB780]

SENATOR WIGHTMAN: ...upon the death of the live tenant. [LB780]

SENATOR ASHFORD: ...or a joint tenancy. [LB780]

SENATOR WIGHTMAN: Yeah. [LB780]

SENATOR ASHFORD: So the information in 521 simply is not used. There's no reason for it. [LB780]

SENATOR WIGHTMAN: It's not. It's not used and...but it's costing some money for people to take care of it. [LB780]

SENATOR ASHFORD: Okay. And even I...even I can... [LB780]

SENATOR WIGHTMAN: Of course, as attorneys, and I know there are several here, you may gain a little bit on that throughout a year, but I'd suspect very little. [LB780]

SENATOR ASHFORD: Not my area of expertise, however. (Laugh) Senator Davis. [LB780]

SENATOR DAVIS: Senator Wightman, these transfers...how...would this have any impact on the inheritance taxes due? I mean with life...with life estate it's paid but... [LB780]

SENATOR WIGHTMAN: It shouldn't, because it is still subject to inheritance tax, but it could. [LB780]

SENATOR DAVIS: But is this document, does that trigger... [LB780]

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SENATOR WIGHTMAN: This document wouldn't make any difference. [LB780]

SENATOR DAVIS: So how do we know that the inheritance tax is actually being paid? [LB780]

SENATOR WIGHTMAN: You know, that's always a problem but with real estate probably far less than with anything else, because with real estate they're probably going to have to show, before they can sell that real estate, that the inheritance tax has been determined and paid or there won't be good title to the real estate. [LB780]

SENATOR DAVIS: But if we've got a joint tenancy situation and the one tenancy dies, that...the property all goes to the other tenant without tax due? [LB780]

SENATOR WIGHTMAN: It would go to the surviving joint tenant, right. [LB780]

SENATOR DAVIS: With inheritance due or without? [LB780]

SENATOR WIGHTMAN: With inheritance tax due, depending upon who provided...that's not always true. There may not be any due. [LB780]

SENATOR DAVIS: Right. [LB780]

SENATOR WIGHTMAN: If the deceased partner or... [LB780]

SENATOR DAVIS: Spouse or... [LB780]

SENATOR WIGHTMAN: ...the deceased owner was not the original owner or the primary owner of the land, then it wouldn't. If he provided...if he had provided, the survivor, had provided the money to buy the land, then there would not be an inheritance tax, but it would require a showing of that to clear the title. [LB780]

SENATOR DAVIS: Thank you. [LB780]

SENATOR ASHFORD: Senator Seiler. [LB780]

SENATOR SEILER: I just may answer Al's question. A lot of lawyers file an affidavit of death, as well as the death certificate, setting the value of the property so they get a stepped up basis. And in that they say whether or not inheritance tax or federal estate tax is due. [LB780]

SENATOR DAVIS: Thank you. [LB780]

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SENATOR ASHFORD: I don't see any other questions. Thanks, John. [LB780]

SENATOR WIGHTMAN: Thank you. [LB780]

SENATOR ASHFORD: Do we have any...those who are for the bill? How many do we have testifying on this bill? All right. Thank you. [LB780]

GREGORY ASCHOFF: My name is Gregory Aschoff, G-r-e-g-o-r-y A-s-c-h-o-f-f. I'm here today in support of LB780. I am here representing the Nebraska Land Title Association. I would first like to thank Senator Wightman for introducing the bill. I thought Senator Wightman did a great job in explaining it all. What we're trying to do with this, as far as the title and escrow business, is eliminate some unneeded paperwork and eliminate some confusion and some costs to our customers. The transfer on death bill two years ago in 2012 that was passed was sort of the exception to the rule. A 521 Form was required on all deeds at the time of recordation of said deed. This, with the transfer on death deed, the 521 Form is not required and, in fact, the 521 Form then gets recorded at the time of the recordation of the death certificate. So it's really the exception to the rule. So what we'd like is to eliminate the 521 Form because it is kind of a cumbersome form and it is not used by any office. The assessor's office, depending on the county, some assessors' offices get them, some don't. The Department of Revenue does not...there's no revenue due on a death certificate unless it is in conjunction with a transfer on death deed. And so the preparation of that 521 Form is a cumbersome process. And if the consumer is going to an attorney to do that, is going to possibly incur some substantial costs in getting that form prepared. The other, the cover sheet to, has never been necessary and so we think that that can be eliminated as well, unless it's in conjunction with that transfer on death deed. [LB780]

SENATOR ASHFORD: Okay. Any questions? Good. Thanks. [LB780]

GREGORY ASCHOFF: All right. Thank you. [LB780]

SENATOR ASHFORD: Next proponent. [LB780]

JANET REED: (Exhibit 2) Good afternoon, Senator Ashford, Chairman, and committee members. For the record, my name is Janet Reed, J-a-n-e-t R-e-e-d, and I am the Otoe County Register of Deeds and I'm here today on behalf of the register of deeds and the clerks in Nebraska to express our support for the passing of LB780. And we also want to thank Senator Wightman for introducing this bill. The section 76-2,126 was amended and we support that, due to the fact that a statement and a cover sheet are no longer required with a death certificate if it is: one, a transfer on death deed due to the death of the transferor or the death of a surviving joint tenant of the transferor; two, a joint tenancy deed due to the death of a joint tenant; or the expiration of a life estate. The statement and the cover sheet are not familiar documents to the person filing the death

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certificate, and it is not within the scope of our authority to assist them to complete those forms. So we advise them, of course, to go to their attorney for assistance and that's not the answer they want when we tell them that. And they just don't understand why they...why we can't help them. And so we just feel like, to the filer that's standing in front of us, it makes us sound like we don't want to help and that we're not doing our job as an elected official. And in conclusion, I'd like to thank you for your consideration and support of LB780. Thank you. Questions? [LB780]

SENATOR ASHFORD: Any questions of Janet? [LB780]

JANET REED: Thank you. [LB780]

SENATOR ASHFORD: Thanks for coming back. You've been here before. [LB780]

JANET REED: Thank you. Yes, I have. [LB780]

SENATOR ASHFORD: You're always full of good information. [LB780]

JANET REED: Thank you. [LB780]

SENATOR ASHFORD: Next testifier. [LB780]

BETH BAZYN FERRELL: Chairman Ashford, members of the committee, for the record, my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. We'd like to thank Senator Wightman for introducing this bill at our request. You've heard what the bill does. It eliminates the filing of a 521 real estate transfer statement except in the case of a transfer on death deed. It would eliminate the filing for a joint tenancy or life estate. And it also makes the change to the cover sheet to eliminate some of the filing that's really not necessary. I would be happy to try to answer questions. [LB780]

SENATOR ASHFORD: Don't see any. Thank you. Any other proponents? Any pro 521 Form people here? (Laughter) Guess not. Senator Wightman, you're... [LB780]

SENATOR WIGHTMAN: I'll waive closing. [LB780]

SENATOR ASHFORD: ...free to...thank you. All right. Senator Harr, in the form of Andy Hale, is coming up. [LB796]

ANDY HALE: Thank you, Chairman Ashford, members of the committee. My name is Andy Hale, A-n-d-y H-a-l-e. I am Senator Burke Harr's legislative aide. Senator Harr is in court in Omaha, as an attorney, not as a defendant, so I just wanted to make sure that is clear. I'm sure you guys had some questions. Senator Harr represents District 8

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in Omaha, which consists of the Dundee, Benson, Keystone neighborhoods, along with the neighborhoods that surround Creighton Prep. Over the summer, a constituent brought up the issue of how rental properties deal with the property of a tenant once that tenant is deceased. Under current Nebraska law, it directs the landlord to lock down the residence until the court authorizes someone, through official court documents, to come down and claim the property. The court then appoints a specific person as a personal representative. Families do not have the desire to wait for the court to take action, nor do they want to incur the cost of going to court. Landlords would like to accommodate the bereaved but oftentimes worry about liability if they release the property to the wrong person. I always kind of feel personally it's best if we can keep the attorneys out of the equation, but I know this probably isn't the best committee to say that in front of. LB796 eases both parties' concerns. What the bill does, it allows landlords now to create a form and request from the tenants the name and contact information of what would be defined as an authorized person, this authorized person who then can retrieve and store the tenant's property once upon their death. LB796 directs the landlord to contact the authorized person within ten days upon the death of a tenant. The authorized person then has 20 days to come and remove the property. If the property is not removed within the time frame, the landlord may dispose of the property as prescribed in the Disposition of Personal Property Landlord and Tenant Act, which is already the law. The landlord would then have no further liability in the tenant and the property. So essentially what we're trying to do with this bill is make it easier upon the death of a tenant. Right now, as you see, there's some hurdles to jump through which puts the decedent's family in a situation where it takes time and costs money, and kind of clears up some ambiguity in the law as it relates to landlords. So Senator Harr asks that you advance this bill out of committee. He's always willing to work with any of the committee members should we amend it, if you guys have any better ideas of how to get to this problem. [LB796]

SENATOR ASHFORD: We did something on this a couple years ago. I can't...maybe not exactly this, but. And this is brought, I suppose, by landlords? [LB796]

ANDY HALE: Correct. Yeah, we had a couple constituents that had some issues. The law is currently based on...it's kind of a collage of several laws but really follows a law that's just been recently passed within the last two years down in Arizona. [LB796]

SENATOR ASHFORD: Okay. I...yes, yes, Senator Davis. [LB796]

SENATOR DAVIS: On page 4, Andy, "the tenant shall provide and routinely update the name and contact information." So what are you calling "routinely"? [LB796]

ANDY HALE: I think what we'd like to have that state, Senator Davis, is if...well, if the authorized person should change. As we know, you could have falling out with friends or whoever that authorized person be. I don't think we want to hamstring the tenant to

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get them committed to the authorized person should some unforeseen circumstance arises where we'd have to change that. [LB796]

SENATOR DAVIS: But it looks to me like you're putting an obligation on that tenant, and I'm not sure they're going to be savvy enough to be aware that they need to do that. [LB796]

ANDY HALE: I think...I get what you're saying and I think we'd like to have that burden be placed on the tenant just because I don't know if the landlord is going to know if there's an issue between the tenant and the authorized person. I think the big thing, though, is ideally and probably this would happen when they're completing the lease agreement. And I think that would be something that the landlords would need to clearly explain who the authorized person should be, and if that does change, that it should be the burden placed on the tenant to go ahead and notify the landlord of that. [LB796]

SENATOR DAVIS: Why wouldn't you put it on the landlord to update it every year? [LB796]

ANDY HALE: Because I think routinely, in my mind, that the authorized person is probably not going to change that much. In circumstances probably unforeseen it could happen, and I don't know if we want to burden the landlords to...or actually the tenants as well to have them come back and say, well, do we need to update the list. I think it should be incumbent upon the tenant to go and let them know who that person is. [LB796]

SENATOR DAVIS: Just playing the devil's advocate with you,... [LB796]

ANDY HALE: Sure. [LB796]

SENATOR DAVIS: ...you can have tenants that are in a building for ten years and they could be 60 years old when they move in and you're going to be putting an obligation on them that they may not even be aware of. So ten years later, when they pass away, the authorized person is moved away or is dead. I mean to me it makes more sense to put the obligation on the landlord just as a form. Every year, January 1 you send it to them and say is your authorized person still the same. That's just my opinion on it. [LB796]

ANDY HALE: Uh-huh. We can examine it, and we do have some people that I know that will be testifying after me that are in the landlord business and they might be able to answer that question... [LB796]

SENATOR DAVIS: That would be good. That would be good. [LB796]

ANDY HALE: ...how often this does occur. [LB796]

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SENATOR ASHFORD: Yes, Senator Lathrop. [LB796]

SENATOR LATHROP: What happens if they don't have one? Upon request by the landlord, so if the landlord doesn't make a request what do we do with the property when the guy dies? [LB796]

ANDY HALE: Well, I would imagine it would fall back to the procedure we have now, which I think, and again that would probably be best answered by the landlords, that I imagine they...I don't know how they handle it. I mean I would imagine if I was a landlord, you try to contact somebody. I don't know. The way the law is written now... [LB796]

SENATOR ASHFORD: Well, I think the problem now, that there's a period of time that has to elapse, I don't know if it's 30 days or what it is, I think it's 30 days before the landlord can gain possession of the property and gain possession of the unit. I think that's the law now. [LB796]

ANDY HALE: Yeah, I'm sure there's something in place, Senator Lathrop. [LB796]

SENATOR ASHFORD: Senator Seiler knows the law. He can tell you. [LB796]

SENATOR LATHROP: The only other concern I'd have is if the tenant has paid rent to a date beyond this. Let's say that I pay my rent six months at a time... [LB796]

ANDY HALE: Uh-huh. [LB796]

SENATOR LATHROP: ...and I die a month into it. If I don't get my stuff out of there, even while I paid rent for the period of time that it's sitting there, the landlord could come in and dispose of the property even while I still have time that I paid my rent up for. [LB796]

ANDY HALE: I... [LB796]

SENATOR LATHROP: Right? Doesn't seem like they ought to be able to take your stuff any sooner than this date or the date your tenancy ends. [LB796]

ANDY HALE: Uh-huh. [LB796]

SENATOR LATHROP: Just a thought. [LB796]

ANDY HALE: Thank you, Senator. [LB796]

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SENATOR ASHFORD: Okay. Thanks, Andy. [LB796]

ANDY HALE: Uh-huh. [LB796]

KENT ROBERT: Good afternoon. My name is Kent Rogert, R-o-g-e-r-t, and I'm here today representing the Statewide Property Owners' Association of Nebraska in support of LB796. I'll maybe try to answer a couple of the questions you guys asked just previously. Senator Davis, I think the burden is shared. The first part of line 6 is: on request by the landlord. So currently I would guess that if a landlord...we prefer property owner. We'll say that. If a property owner asks a tenant for this information, the tenant doesn't have to give it to them. They may say that's private information, you don't need to know who to contact. So this allows them to require that information in the lease or on a separate form if they want to. So, Senator Lathrop, I think the question might be if the tenant dies is the contract still enforceable even though consideration has been paid on a date beyond. So that may just be something... [LB796]

SENATOR LATHROP: Is this in the residential landlord-tenant or just in regular landlord-tenant law? [LB796]

KENT ROBERT: It's just flat landlord-tenant, uh-huh. [LB796]

SENATOR LATHROP: Okay. So I'm thinking, just go with me on this one for a second. If I lease farmland... [LB796]

KENT ROBERT: Uh-huh. [LB796]

SENATOR LATHROP: ...and I bring tractors and pickup trucks and whatever other stuff I need to take care of the property or to grow whatever it is I intend to grow there,... [LB796]

KENT ROBERT: Uh-huh. [LB796]

SENATOR LATHROP: ...irrigation equipment I suppose would be personal property, and I die, I've paid my rent up through the year, I got a crop there my estate wants, right? [LB796]

KENT ROBERT: Yeah. [LB796]

SENATOR LATHROP: And I die a month into it. And this would let the guy...there's nothing here stopping the guy from waiting till the end of my tenancy to engage in this process so that he can literally take my stuff, get rid of it while it's sitting on land I paid for, for a whole year. [LB796]

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KENT ROBERT: Sure. Understand. I'm not...I see your point. I think language could be massaged to make that happen. There may be a provision somewhere else in the act that supersedes this no matter what for that instance. [LB796]

SENATOR ASHFORD: Yes, Senator Christensen, then Senator Davis. [LB796]

SENATOR CHRISTENSEN: Thank you, Chairman. I believe when you get into on the land rents, it's clarified by statute that you got to be notified, if it's not a written lease, you got to be notified by September 1 in the state of Nebraska... [LB796]

KENT ROBERT: Yep. [LB796]

SENATOR CHRISTENSEN: ...that your tenancy is ending. So if they bought...die earlier than that, they...all you got to do is get your notice to them by September, which means they got to be off by March. So I think this is more a relevant deal to a home, apartment. [LB796]

KENT ROBERT: I would agree. I would agree. [LB796]

SENATOR CHRISTENSEN: And I think the other statutes we have already would take care of the land end of things. [LB796]

SENATOR ASHFORD: Senator Davis. Or I'm sorry... [LB796]

SENATOR DAVIS: Just to follow up a little bit on Senator Lathrop's comments and questions, because some leases, as you probably know, are you pay your first month's rent... [LB796]

KENT ROBERT: Sure. [LB796]

SENATOR DAVIS: ...and your last month's rent. [LB796]

KENT ROBERT: Sure. [LB796]

SENATOR DAVIS: So I mean you've got to have some protection in there for that or else it's got to be refunded. [LB796]

KENT ROBERT: Yes. Yeah, I think if it's not implied somewhere else in the act, we could easily put it in there. We could easily fix it. [LB796]

SENATOR ASHFORD: Yes, Senator Coash. [LB796]

SENATOR COASH: Thank you, Chairman Ashford. Kent, I'm just struggling. Is it

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unlawful as a landlord to say here's the lease, here's the place, here's the rent, and I need you to tell me who to give your stuff to if you kick the bucket? [LB796]

KENT ROBERT: There's some pretty specific things that are allowed to be put in a lease just currently. It doesn't say you can't, but it doesn't say you can. And I think a tenant at any point can say, no, not giving you that information. [LB796]

SENATOR COASH: Well, because I was looking at an earlier section of the bill, page 3, line 17. There's a Uniform Residential Landlord and Tenant Act. [LB796]

KENT ROBERT: Uh-huh. [LB796]

SENATOR COASH: And if it doesn't say in that act that you can't ask for a notified person, then why couldn't a landlord say, I need you to tell me? And if the person says, you know, I don't want to, the landlord says, you know what then, this isn't going to work out... [LB796]

KENT ROBERT: (Laugh) I understand. [LB796]

SENATOR COASH: ...because I can't...you know, I have to have this. That's... [LB796]

KENT ROBERT: Yep. [LB796]

SENATOR COASH: I mean I'm a landlord and now I'm thinking I need to start asking but... [LB796]

KENT ROBERT: Well, and I agree. (Laugh) I'm on the same boat. I would suggest that it's probably...because if you have a good renter, and this is the only thing and some folks are just very private with their information and they say, well, I don't have any family. And if they want...they just don't want to give up any of that information, but they pay their rent on time. It's not something worth kicking them out on. But now you can say, well, now you have to provide it. [LB796]

SENATOR COASH: Then couldn't the landlord in that instance say, that's fine, if you don't want to give me a person then I'm going to say that if you die I'm taking your stuff, and that's going to be in my lease? [LB796]

KENT ROBERT: Well, well, if they don't give you that information, it goes back on the landlord because it ends up in a court. Then you have to probate it and it takes a while. [LB796]

SENATOR COASH: Right. [LB796]

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KENT ROBERT: And this would still be a shorter, cleaner system because under this you could take the property directly out and put it in storage. You don't have to lock down the apartment, wait for the court to say you can come back in and get the stuff and move it out like you currently do. If somebody dies, you can't just move their stuff to storage and re-rent the place currently right now without a court order. [LB796]

SENATOR COASH: Okay. [LB796]

KENT ROBERT: So under this, even if they didn't give you that information, you can move the stuff off-site to a storage unit, get the place back to re-rent it, and then you can handle it over here on the side. [LB796]

SENATOR COASH: Right. I missed the beginning of Andy's opening, but is this a big problem? [LB796]

KENT ROBERT: It's... [LB796]

SENATOR COASH: I'm just trying to get the scope of what we're trying to fix here. I mean do we have... [LB796]

KENT ROBERT: I can't answer that. [LB796]

SENATOR COASH: Okay. [LB796]

KENT ROBERT: I don't...you know, I think his guys are with NP Dodge and they're obviously a big group of folks and so... [LB796]

SENATOR COASH: All right. Thanks. [LB796]

KENT ROBERT: ...may have some question. Yeah. Thank you. [LB796]

SENATOR ASHFORD: It's an old, old firm, NP Dodge. [LB796]

KENT ROBERT: Yes, Sandy, NP. (Laughter) [LB796]

SENATOR ASHFORD: Okay. [LB796]

GENE ECKEL: Good afternoon, Chairman Ashford, members of the Judiciary Committee. My name is Gene Eckel, that's E-c-k-e-l, and I have to apologize to Mr. Robert. I told him to go up first and I think he wishes now maybe I should have gone first. [LB796]

SENATOR ASHFORD: Well, did he have a role? What was he...who was he...? (Laugh)

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No, that's okay. Never mind. [LB796]

GENE ECKEL: I am an attorney from Omaha and I am on the board of directors for the Nebraska Association of Commercial Property Owners and the Apartment Association of Greater Omaha and Lincoln. And I am here today on behalf of both associations to testify in support of LB796. The Apartment Association of Greater Omaha and Lincoln has 33 property management companies as members that manage 125 apartment communities consisting of approximately 22,665 apartment units. Both associations support LB796 because it does provide much needed direction to the landlord or a landlord's property manager as to how or as to who should have access to the deceased tenant's personal property or how to dispose of it if no one comes to retrieve it. And as Senator Harr's legislative aide indicated, some property managers or landlords initially will lock up the unit. They'll change the locks, preventing anyone to get into that unit until they do come up with the letters of the personal representative or, as I've encountered this year, they don't want to go through probate so we've had them sign an agreement releasing the landlord or the property manager of liability for allowing them to have access. So that places an unnecessary stress on the tenant's loved ones and friends and the landlord or the property manager. In addition, it does result in an economic loss to the landlord and the property manager because it delays the time they can get into the unit, clean it up, and then put it back on the market. And sometimes, you know, I won't get in graphic details, but when someone does pass away, the landlord may not know about it for a couple of days and they do have to get in there and do some cleanup, and it causes some problems in those type of situations. But we're just here today to talk about when they're leaving their personal property behind. Although we support LB796, we do think there should be some amendments made to it. I think we've already kind of discussed it through the various questions here today. If a tenant does fail to state who their person is to come and retrieve their stuff, we think that should be addressed. We thought that we should be allowed to dispose of it after a certain period of time if they don't name someone in there, or if the person who's authorized to come retrieve it gets some of it and then leaves the rest of it there. As the bill does say that if stuff is left behind or someone doesn't come get it, then you fall back to the Disposition of Personal Property Landlord and Tenant Act. That would...right now the current language of this legislation says it's about a 30 day. You give them 10 days to come and answer, and if they do answer, they have 20 days to come pick it up. So that's 30 days. But under the Disposition of Personal Property Landlord and Tenant Act, you have to send them notice. Well, in this case, the notice usually goes to the tenant's last known address, which is the apartment unit. And you have to give them 14 days to come pick it up. In this case, the tenant is now deceased so who is that notice going to? It's going to a deceased tenant. And if they don't pick it up in 14 days, then you have to publish it. Am I out? Am I done? [LB796]

SENATOR ASHFORD: Yeah. [LB796]

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GENE ECKEL: Okay. (Laughter) You guys should have some questions then. Sorry about that. [LB796]

SENATOR ASHFORD: You actually are. But, no, you...no, seriously, if you want to go ahead and finish your... [LB796]

GENE ECKEL: Well, I was just going to say you have to publish it for two weeks in the paper and then you can hold a public auction and sell it off, and then that proceeds then goes to the State Treasurer after you deduct the amount for storage. [LB796]

SENATOR ASHFORD: Okay. Senator Coash. [LB796]

SENATOR COASH: Thank you. Do your members right now ask for authorized persons in their leases right now? [LB796]

GENE ECKEL: Currently, I'm not aware of any of our members doing that. A lot of times they are using a lease that's been prepared by the National Apartment Association. It does not have anything in there for setting forth who is going to...who's allowed to come pick up your personal property. [LB796]

SENATOR COASH: So you don't know if you...I mean if you have none of your members who are asking this information, you don't know if...the scope of the people who are saying, no, I don't want to do that. I mean Mr. Rogert said, look, you know, some people are pretty private. [LB796]

GENE ECKEL: Uh-huh. [LB796]

SENATOR COASH: And I get that. But I would...as a landlord myself, I mean if I want to put something in the lease, I put it in the lease. If they don't want to sign it, I go find another tenant. I mean if it's that important that you have that, I would think that they would at least ask. And then you make a decision, you know, as a landlord: Oh, well, that's fine, I'll rent to you anyway;... [LB796]

GENE ECKEL: Uh-huh. [LB796]

SENATOR COASH: ...or, sorry, without an authorized person, I'm afraid you're going to have the big one, so I can't rent to you. [LB796]

GENE ECKEL: And, Senator, what I would say, some leases do provide for someone to put down emergency contact information, so that's one person you can go to. My view is, if the Uniform Residential Landlord-Tenant Act in Nebraska, you know it does state certain provisions you cannot put in a lease. But anything else I think... [LB796]

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SENATOR COASH: Is that one of them? [LB796]

GENE ECKEL: No, and my view is if it's not one of those delineated provisions you can't put in, then you can put anything you want in that lease. And currently there are leases that say if you, you know, perform a criminal act you're going to be, you know, it's grounds for eviction. The statute doesn't even speak to that. So I would say that as long as it's not one of those delineated provisions that you're not supposed to put in there, you can put it in there and request it and it's up to you whether or not you want to. [LB796]

SENATOR COASH: Yeah. Well, that's, I mean, that's where I'm going. If the property owner thinks it's a big problem and I could see if you've got a lot of units and increases your risk of having one of your tenants pass away on you, then you need to put it in there. And if you weren't worried about it, you wouldn't. But I'm just struggling to figure out how...why this is needed. [LB796]

GENE ECKEL: Okay. And Senator Davis'... [LB796]

SENATOR ASHFORD: Actually, Senator Davis was making the same point, too, and I think... [LB796]

GENE ECKEL: Yes, and I would say that usually upon the lease ending, they always have to come up for renewal anyway. So typically the tenant has to come into the leasing office, sign a new lease. So at that point they could update the information at that time if they wanted to. If that... [LB796]

SENATOR DAVIS: If they wanted to. [LB796]

GENE ECKEL: If they wanted to. Now... [LB796]

SENATOR DAVIS: But that's where I'm having a problem with this. [LB796]

GENE ECKEL: That's true. And I would say it's kind of similar to a will. A lot of people, they get married and have kids, they go get a will; they never update it for a long time or ever. And that causes a problem too. So, you know, the burden should be on the person who does the will to go update, and I would say the burden is on the tenant that they're going...if they have the option every year to renew and that provision is there, certainly the Apartment Association could be educating its members to make sure that your leasing agents and your property managers are going over this section. Or you could, similar to like the arbitration provision in the state statute in Nebraska that has to be, you know, all caps or bold or underlined. And you know, we would not be opposed to something like that to say, you know, do...have some kind of provision to make sure that it's being covered. [LB796]

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SENATOR DAVIS: I don't know how you do your leases, you know, whether everybody is on a lease base or whether it goes from a six-month lease to a month to month after that. [LB796]

GENE ECKEL: Uh-huh. [LB796]

SENATOR DAVIS: But to me...I mean, this is just the way I see this. If you can already do this, I don't know why you're not doing it now. [LB796]

GENE ECKEL: My response is because currently we think the default would be going back to the Disposition of Personal Property Landlord and Tenant Act that... [LB796]

SENATOR DAVIS: What you said, would you go over the term, the time frame on that for me? [LB796]

GENE ECKEL: Yes. If you serve it to them personally, which isn't going to happen in this case,... [LB796]

SENATOR DAVIS: Which you're not going to do. [LB796]

GENE ECKEL: ...seven days they have to come back and pick it up. If you mail it to them, they have 14 days to come back and pick it up. And if they don't do it after that point, then you have to publish it for two weeks in a newspaper of general circulation in that county. And then you can put it up for public auction. [LB796]

SENATOR DAVIS: So you got a 30-day window. [LB796]

GENE ECKEL: Approximately. [LB796]

SENATOR DAVIS: And so don't you have a 30-day window with what you're requesting here? [LB796]

GENE ECKEL: We do, but then you have an additional 30-day window with regard to the disposition of personal property. But the problem is it does give... [LB796]

SENATOR DAVIS: No, could you explain that to me? I don't get that, how you have an additional 30 days. [LB796]

GENE ECKEL: Well, under this legislation, because the fallback would be if someone doesn't come pick up the personal property, then we have to go through the Disposition of Personal Property Act. [LB796]

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SENATOR DAVIS: So this bill actually makes it a 60-day deal. [LB796]

GENE ECKEL: Sixty or longer, depending on when you can get a public auction scheduled. But the Disposition of Personal Property Landlord and Tenant Act does not provide protection to the landlord for disposing of the property or, you know, if somebody wants to get in there. We still have that problem of do we know who this person is? Are they actually the personal representative? You know, they say they are but sometimes we go as far as, okay, give us your driver's license, you know, sign this agreement. But if there's a fight and it goes to probate, it could be six months later, so. That might be an anomaly, but. [LB796]

SENATOR DAVIS: Just bear with my little argument. [LB796]

GENE ECKEL: Okay. [LB796]

SENATOR DAVIS: So we've got an elderly person that moves into one of your apartments and lives there for a year or two, and she has some friend that she meets there and she likes that person so she puts that person down as her designated person. But really, she's got a farm somewhere that she's leaving to her children. I mean you're getting into a lot of muddy water here, it looks like to me. So, you know, the authorized person comes in, takes the property. Children come along and they go, where's my mother's antique file...you know, cabinet or whatever. It just looks to me like you've got some real problems. If you can do this on your own, I would suggest you try to do that. [LB796]

GENE ECKEL: Well, the liability issue would still be there so that's... [LB796]

SENATOR DAVIS: Well, you want to be relieved of the liability is what you really want, right? [LB796]

GENE ECKEL: And be able to have somebody get in there quickly and remove the property from the unit, because sometimes some people may not even have anyone, any loved ones left. So then the issue is, what do you do at that point? At a minimum, we should be addressing the Disposition of Personal Property Landlord Tenant Act to say, well, who do we send a notice to if it's a deceased tenant. [LB796]

SENATOR DAVIS: And if you voluntarily ask them for the authorized person, I would say that would be the person. You know, just... [LB796]

GENE ECKEL: Right. [LB796]

SENATOR DAVIS: You know, I'm just giving back to you but... [LB796]

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GENE ECKEL: Sure. Any other questions? [LB796]

SENATOR ASHFORD: Probably a lot more than when we started. (Laughter) Okay. [LB796]

SENATOR DAVIS: This is Judiciary. Nothing is ever easy. [LB796]

GENE ECKEL: That's true. Thank you very much. [LB796]

SENATOR ASHFORD: Okay. Thanks. Next proponent. [LB796]

KRISTY LAMB: Hello. [LB796]

SENATOR ASHFORD: Hi. [LB796]

KRISTY LAMB: My name is Kristy Lamb, K-r-i-s-t-y L-a-m-b, and I am the director of property management with NP Dodge Management Company, and I'm also an active member with the Institute of Real Estate Management, and we are here in support of LB796. Because we've been on this topic for a while, I'll try not to reiterate anything that's already been said. But I think I may be able to answer a few of the questions, keeping in mind that I'm obviously not an attorney. The reason that we are in such strong support of this is because we truly feel that we do not have an avenue currently that we can execute at the time of their lease and/or their renewal that is still valid at the time of their death. So if we could do that, then that would be our preference. But because there's no language currently within the landlord-tenant law, their lease and almost anything that they sign essentially terminates at the time of their death. And so then we look to the probate law at the time that they pass away in order to reconcile those personal possessions that are left behind. And the emotional and the financial hardship that we're seeing from our residents is substantial at times. NP Dodge manages about 4,000 apartments, so I would probably consider that a small- to medium-size management company in the Omaha-Lincoln area, and we easily deal with this unfortunate situation at least once or twice a month. And in most circumstances, we've had residents that have come forward and say, what can I do in advance in order to make preparations? If they happen to know that they're ill or they're aging, we have several senior communities, we just don't have the ability from what we've been advised from a legal perspective of something that we can have them sign that would hold up afterwards. So then when they pass, that financial burden is placed on the family in order to gain legal counsel and have the personal representative appointed. And in most of our situations, our residents don't have those financial means to do that. So then they're stuck waiting 30 days without closure and we become the bad guys by holding their personal possessions for those 30 days until...in most cases, our residents, the value of the estate is worth less than \$50,000. So then a family member can come forward and sign a small estate affidavit and then come and collect

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their belongings after that time. So this would just help expedite that and still honor our residents' wishes by allowing them to appoint the person that they want their personal belongings to go to. Does that help clarify some questions? [LB796]

SENATOR ASHFORD: Yes. [LB796]

KRISTY LAMB: Okay. [LB796]

SENATOR ASHFORD: No questions, so it must be clear now. Thank you very much. [LB796]

KRISTY LAMB: Thank you very much for your time. [LB796]

SENATOR ASHFORD: Next testifier? Anybody opposed to the bill? Neutral? Andy. Okay. Thank you. Senator Seiler, LB775. That's a...that's quite a number. [LB796]

SENATOR MCGILL: (Laugh) That's an infamous number.

SENATOR DAVIS: It's a loaded number.

SENATOR SEILER: Mr. Chairman, members of the committee, my name is Les Seiler, S-e-i-l-e-r. I'm the representative of the 33rd District, and I bring this bill on behalf of the Nebraska Bankers Association but I also bring it on behalf of the practicing bar. There is an advantage in practicing as long as I have. When we started out with small estate affidavits, you'd call the banker up, and a wink and a nod, and he'd tell you how much was in the client's account. Then you knew if it was under \$30,000; you knew that that was the only account, the only asset. You could do a small estate affidavit. You didn't have to start probating the estate. As time went on and the banking became more and more confidential, even after death, and more national banks came in here from out of state, that wink and a nod practice left town. And so now you have to get your...you've got a choice. You can take a chance that the property is under \$30,000 from what your clients are telling you, or you have to file an estate and then you get the PR appointed and then the personal representative can go to the bank and get the information. Right? Wrong. Because then they say, oh, wait a minute, some of this is in jointly held property or paid on death and you're not the right person to be telling this to. So now you've got to find out who's on there, and they're not allowed to tell you. So what I'm bringing to you today is an affidavit that gets the confidentiality on the table right away and people are...both the banks want it and that waives the confidentiality of the bank, also waives the confidentiality of the estate and you can get to the point where you can either know you're going to be in a \$50,000 small estate affidavit for personal property. And my next bill which I'll talk here soon is a \$50,000 for real estate, and the real estate is not the problem. Ninety percent of the time is getting the hands on how much you've got for the small estate affidavit. And you need those values for a couple things. You need them for

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the inheritance tax, so you know whether or not the person is...a child is receiving it for the \$40,000 exemption; the wife is receiving it for a 100 percent exemption; Sam Jones, his buddy, receiving it so you can tax him at 19 percent. So we need that information, both of the joint and paid on death as well as the individual accounts, without having to start a special...well, some of the information is you start with a special administrator. I've never done that. I just file for a informal opening and then I can get the information right away. So I've never used the special administration that is available. But this affidavit would save the clients, the banks, and people a lot of money. And I don't believe...I have not received any information, except Paul Schumacher has introduced a similar bill and he and I talked this morning and we're going to coordinate these two. But I'd ask that this be passed along so we can get going. And he just dropped his bill in on day nine, so his bill is sitting back a ways. But we might be able to merge his stuff into mine and move it along. I'd like to introduce to you Tom Fitchett, the lawyers on this group would know. [LB775]

SENATOR ASHFORD: Yeah, would you...Les, do you want to just do the next bill too? They're pretty similar, aren't they? Do you want to just do... [LB775]

SENATOR SEILER: Well, I think there's going to be some people... [LB775]

SENATOR ASHFORD: Only if it might be...but that's fine. Does Tom want to come up and talk about this? [LB775]

SENATOR SEILER: Yeah, Tom is going to come up... [LB775]

SENATOR ASHFORD: Okay. [LB775]

SENATOR SEILER: ...and talk about this bill a little bit and the next one. [LB775]

SENATOR ASHFORD: Okay. Well, that's fine. We'll do them separately then. [LB775]

SENATOR SEILER: And we've talked about it. Tom is a well-known real estate and property lawyer. He's got one bad habit though. He was a classmate of mine. So if Tom would come up and voice his opinion. [LB775]

SENATOR ASHFORD: You take the good with the bad, Les, I mean... [LB775]

SENATOR SEILER: Yeah. [LB775]

SENATOR ASHFORD: I mean I...or the not-so-good or whatever. [LB775]

TOM FITCHETT: My name is Tom Fitchett, F-i-t-c-h-e-t-t. I'm a semiretired attorney, been practicing about 48 years, as Les has. The Nebraska Bar Association asked me to

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appear on this. They fully support this legislation. I don't see any downside to it. It allows some information to flow out from the financial institutions so that the lawyer, the family can make their decisions on how to proceed to pick up those assets. And it's that simple. Let the information flow out. It can't be used, it doesn't offer any access to the assets themselves, only the information about the assets. I noted life insurance is in there. That can be a problem. You end up, and somebody says, well, Harry had a life insurance policy with MassMutual. You contact MassMutual with the name, Social Security number of Harry; they say, yes, we did have a policy but we can't tell you anything about it. You don't know who the beneficiary is, you don't know who to have contact the insurance carrier. So this is just a matter of opening up the flow of information with, I believe, no downsides. [LB775]

SENATOR LATHROP: Just a brief question. I've done just enough probate to understand your dilemma and I get it. Who can take advantage of this, though? If it's the bank that we go to, and let's say we think Mom had an account at the bank, who gets to call the bank and have access to this? Or what's the... [LB775]

TOM FITCHETT: An heir of the... [LB775]

SENATOR LATHROP: ...what's the security so that we don't have a stranger, a nosy neighbor, you know? [LB775]

TOM FITCHETT: I believe it refers to a devisee under the will, an heir of the decedent, or a personal representative named in the will of the decedent. [LB775]

SENATOR LATHROP: Okay. So we have two classes of people. If you have a will, there are people that are designated to receive; those folks would have access. And if there's no will, there are people that would receive by operation of law. [LB775]

TOM FITCHETT: Yes, sir. [LB775]

SENATOR LATHROP: Both would have...be able to call up or have access to this. How is the bank going to know whether the guy died intestate or not? [LB775]

TOM FITCHETT: They don't. Now whether the affidavit...there are perjury provisions that apply and I think there is no way. I don't believe the act requires attaching the will, for instance. [LB775]

SENATOR LATHROP: Yeah, I'm not sure that it necessarily requires deceit, right? It may not require deceit. The will may be in the lockbox that I can't get to... [LB775]

TOM FITCHETT: Yes. [LB775]

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SENATOR LATHROP: And so I may think Mom didn't have a will and so I'm rolling in there thinking she left everything to me, her only son, right? [LB775]

TOM FITCHETT: Yes. [LB775]

SENATOR LATHROP: So I fill a form out and find out that she left everything to Al Davis. [LB775]

TOM FITCHETT: Well, or you find out that the asset was in the sole name of the decedent and now it's going to run through the estate. It's only the flow of information that rises from this bill, which I... [LB775]

SENATOR LATHROP: Okay. [LB775]

SENATOR ASHFORD: Yes, Senator Davis. [LB775]

SENATOR DAVIS: You talked about life insurance, but is that going to solve the problem with life insurance, this bill? [LB775]

TOM FITCHETT: I believe it does. Life insurance was mentioned, yeah, life insurance policy instrumenting...evidencing a debt, chose in action, or a life insurance policy. [LB775]

SENATOR DAVIS: So if you have a life insurance policy that is in a corporation that's in Iowa, they'll still have to comply with this law. [LB775]

TOM FITCHETT: This is...I can't answer that due to choice of laws. But they...doesn't matter where their office is, they... [LB775]

SENATOR DAVIS: If they're headquartered...you know where I'm going with this. [LB775]

TOM FITCHETT: They sold the policy in Nebraska so they're authorized to deal and are responsible in Nebraska. [LB775]

SENATOR DAVIS: And if they sold the policy in Iowa but the guy moved to Nebraska? [LB775]

TOM FITCHETT: It's harder. [LB775]

SENATOR DAVIS: This is Judiciary. Like I said, nothing is ever easy in here. [LB775]

TOM FITCHETT: This is law school again. [LB775]

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SENATOR ASHFORD: Thank you, Tom. [LB775]

ROBERT HALLSTROM: (Exhibit 3) Chairman Ashford, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as a registered lobbyist for the Nebraska Bankers Association in support of LB775. Senator Seiler and Mr. Fitchett have done a nice job of describing the types of situations or scenarios in which this bill would be helpful from a perspective of cost for customers of banks, and again, all we are dealing with here is the free flow of information to avoid some expenses from having to be incurred where they might otherwise not have to be, in terms of having a special administrator or a personal representative appointed. Banks take the privacy of their customers very seriously, both as a good business practice and because of state and federal regulations that require it. You can look at the bill, and section 8-1401 provides the disclosure of confidential information exceptions. The general rule is that otherwise confidential information is not deemed to be "disclosable" but there are a series of exceptions that have been put together over the years that all make rational sense, as we hope this bill does. And we would ask you to advance the bill on to General File. [LB775]

SENATOR ASHFORD: I don't see any questions. Thank you. [LB775]

ROBERT HALLSTROM: Thank you. [LB775]

SENATOR ASHFORD: Any other testifiers of any kind, for or against? Okay, Les. Les waives. We'll go on to the last bill of the day, LB693. [LB775]

SENATOR SEILER: Mr. Chairman, members of the committee, my name is Les Seiler, L-e-s S-e-i-l-e-r, and I am Senator from the 33rd District. This bill is something that is kind of a cleanup bill. In 2009 this committee and the Legislature passed to raise from \$30,000 to \$50,000 the property passing under the small estate affidavit for personal property. This bill comes forward to pass the real estate...raise the level of the real estate up from \$30,000 to \$50,000. We believe that that will save a lot of small cases being filed in county court and we'll be able to move some real estate that...in a simplified manner that doesn't cost a lot of money to the people. And where some of you folks are from Lincoln and Omaha, you probably won't see this much. But out in the hinterland of Nebraska, in towns such as Red Cloud, Clay Center, Blue Hill, that area, those houses are selling, nice houses, for \$30,000, and so the values are low and a lot of houses are available. And this, on the passing of a person, this affidavit would really save a lot of time and money for families. I'm not for doing away with attorney fees, but this is one that's not necessary. The second part of this bill is I got...is on me. Well, the whole bill is on me because I'm the one that proposed it and I'm the one that drafted it. But I ran into a scenario about the last four cases of last year that I handled is where you had a house worth \$100,000 or \$200,000 and you had a debt of \$100,000 or

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\$200,000. Couldn't use the small estate affidavit. And so I proposed that we use encumbrances to offset against the value to get to that \$50,000--sounded great. Tom Fitchett and I went to lunch today and he talked me out of it and he'll tell you what clause we agreed on. But his example to me on the phone when he first called me on it was, hey, you can transfer the Empire State Building if it had equal amount of debt and asset, and you probably wouldn't want to do that. And so with...we weren't talking about houses at that point. We could be talking about farm ground, and '79 to '83 quickly flashed through my mind, when the debt exceeded the value of the farm ground. And so I think that Tom is right and he's going to describe taking off the language on page 2, line 19. But he did concede the real estate taxes and interest due at the time of death. So I'm asking that this is a cleanup bill and it be moved on to the General File. And I'd again introduce Tom. Any questions? Yes. [LB693]

SENATOR ASHFORD: Senator Davis. [LB693]

SENATOR DAVIS: Les, what if you got...this is just the real estate,... [LB693]

SENATOR SEILER: Right. [LB693]

SENATOR DAVIS: ...which is, in our little towns that you cited, very appropriate. But what if they've got assets of stocks and bonds and things that go into the estate? I mean this is not just the estate. [LB693]

SENATOR SEILER: That's personal property. [LB693]

SENATOR DAVIS: This is the real estate. [LB693]

SENATOR SEILER: Right. And if the total estate was above this, this number, I've always taken the position you can't...you have to probate it then or bring an action of some sort. [LB693]

SENATOR DAVIS: But this isn't going to cause problems with that, is it? [LB693]

SENATOR SEILER: No. No, this is not real new law. We've had section 30-291...or 129 around for quite a while. And it's worked well. It's worked well. The problem is the values of things, like household goods and bank accounts, have grown and we need to move that up. And we did for personal property, but now we need to do it for real estate also. Steve, did you have a question? [LB693]

SENATOR LATHROP: You know what? It was...this is just a city guy asking this question. I know that some of the ag land gets valued at less than its true value, right? The Farm Bureau... [LB693]

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SENATOR SEILER: Right. [LB693]

SENATOR LATHROP: ...offered to have it, as a legislative proposal, to have it valued at 65 percent instead of some other percentage. So when we use the assessment, property shown on the assessment rolls, is that the full value or is that going to be 65 percent of the value if this Farm Bureau proposal gets passed? [LB693]

SENATOR SEILER: I would assume that it's 65 percent if it's farm ground. I... [LB693]

SENATOR LATHROP: So if it's farm ground, we're actually talking about almost twice of \$50,000. [LB693]

SENATOR SEILER: Yeah, but the only problem is you're not going to...you've got ten acres or less and you're over the \$50,000, so you're really talking about vacant lots. [LB693]

SENATOR LATHROP: Okay. So you don't see that as a problem. [LB693]

SENATOR SEILER: I don't see that as a problem. [LB693]

SENATOR LATHROP: Okay. [LB693]

SENATOR SEILER: No. The values will take it out of the \$50,000 range rather quickly. [LB693]

SENATOR ASHFORD: I don't see any. Thanks, Les. [LB693]

SENATOR SEILER: Okay. [LB693]

SENATOR ASHFORD: Tom, do you have some...? [LB693]

TOM FITCHETT: My name is Tom Fitchett, F-i-t-c-h-e-t-t. I was involved with Senator Pederson in 1999 when this bill was originally enacted and appeared at this committee 14 years and 5 years...5 days ago, testified regarding it. The bill is good legislation. It's worked well over the years. Raising the limit is a good thing to do. I only represent myself in connection with this piece of legislation. The proposal that Senator Seiler and I discussed was dropping out the words "liens and encumbrances, including" and leaving "real estate taxes" and adding into it "an interest thereon, if any, due at the time of death." These are both numbers that are readily ascertainable with a phone call to the county register of deeds and county treasurer, county assessor. But having a piece of legislation that allows an unlimited value of property, not net property but gross value, pass by an affidavit, it doesn't provide the protection to both creditors and successors in an estate that I think should be present when you have large values. So my suggestion

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was to drop out the "liens and encumbrances" language from the bill. Answer any questions. [LB693]

SENATOR ASHFORD: What was Senator Seiler thinking? [LB693]

TOM FITCHETT: Oh, he's had good examples where... [LB693]

SENATOR ASHFORD: Yeah. [LB693]

TOM FITCHETT: ...that it would have helped. [LB693]

SENATOR ASHFORD: I'm just kidding you, Tom. I don't know where he was going. He must have... [LB693]

SENATOR LATHROP: Where do you practice law? [LB693]

TOM FITCHETT: In Lincoln. [LB693]

SENATOR LATHROP: Oh, do you? [LB693]

TOM FITCHETT: Up until the end of 2007 at our firm. I went home and still do a little work but not much. [LB693]

SENATOR LATHROP: Okay, good. Thanks for coming. [LB693]

SENATOR ASHFORD: Thanks for all your time in... [LB693]

TOM FITCHETT: Thank you, Senator. [LB693]

SENATOR ASHFORD: ...48 years. I don't think anybody...anybody else here on this one? Any... [LB693]

SENATOR SEILER: I'll waive closing, but I agree to the change in language and we will amend it. [LB693]

SENATOR ASHFORD: Thank you, Les. All right. That closes our hearings. Thank you all. [LB693]