

LEGISLATIVE BILL 377

Approved by the Governor March 9, 1971

Introduced by P. J. Morgan, 4th District

AN ACT to amend section 25-1916, Reissue Revised Statutes of Nebraska, 1943, relating to civil procedure; to provide for a cash deposit in lieu of bond to operate as a supersedeas on appeal to the Supreme Court; and to repeal the original section.

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

Section 1. That section 25-1916, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-1916. No appeal in any case shall operate as a supersedeas, unless the appellant or appellants shall within twenty days next after the rendition of such judgment or decree, or the making of such final order, execute to the adverse party a bond with one or more sureties or in lieu thereof make a cash deposit with the clerk for the benefit of the adverse party, as follows:

(1) When the judgment, decree or final order appealed from directs the payment of money, the bond shall be in the amount of the judgment, decree or final order and the taxable court costs in the district court, plus the estimated amount of interest that will accrue on the judgment, decree or final order between its date and the final determination of the cause in the Supreme Court and the estimated amount of the costs of appeal, said estimated interest to accrue and estimated court costs to be determined by the trial court, said supersedeas bond or cash deposit to be conditioned that the appellant or appellants will prosecute such appeal without delay and pay all condemnation money and costs which may be found against him or them on the final determination of the cause in the Supreme Court; Provided, that when a cash deposit is made or a bond is provided herein, written by a corporate surety company authorized to do business within the State of Nebraska, is approved by the trial court in which said judgment was rendered, and filed in said court the general lien of the judgment shall be dissolved;

(2) When the judgment, decree, or final order directs the execution of a conveyance or other instrument, the bond or cash deposit shall be in such

sum as shall be prescribed by the district court, or judge thereof in vacation, conditioned that the appellant or appellants will prosecute such appeal without delay; and will abide and perform the judgment or decree rendered, or final order which shall be made by the Supreme Court in the cause;

(3) When the judgment, decree or order directs the sale or delivery of possession of real estate, the bond or cash deposit shall be in such sum as the court, or judge thereof in vacation, shall prescribe, conditioned that the appellant or appellants will prosecute such appeal without delay and will not during the pendency of such appeal commit, or suffer to be committed, any waste upon such real estate, and pay all costs, and all rents or damages to such real estate which may accrue during the pendency of such appeal and until the appellee is legally restored thereto;

(4) When the judgment, decree or final order dissolves or modifies any order of injunction which has been or hereafter may be granted, the supersedeas bond or cash deposit shall be in such reasonable sum as the court or judge thereof in vacation shall prescribe, conditioned that the appellant or appellants will prosecute such appeal without delay, and will pay all costs which may be found against him or them on the final determination of the cause in the Supreme Court; and such supersedeas bond or cash deposit shall stay the doing of the act or acts sought to be restrained by the suit, and continue such injunction in force until the case is heard and finally determined in the Supreme Court. The undertaking given upon the allowance of the injunction shall be and remain in effect until it is finally decided whether or not the injunction ought to have been granted.

Sec. 2. That original section 25-1916, Reissue Revised Statutes of Nebraska, 1943, is repealed.