

AMENDMENTS TO LB 779

1 1. Insert the following new sections:

2 "Sec. 4. Section 39-1713, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 39-1713. (1) When any person shall present presents to
5 the county board an affidavit satisfying it ~~(1)~~ (a) that he or she
6 is the owner of the real estate described therein located within
7 the county, ~~(2)~~ (b) that such real estate is shut out from all
8 public access, other than a waterway, by being surrounded on all
9 sides by real estate belonging to other persons, or by such real
10 estate and by water, ~~(3)~~ (c) that he or she is unable to purchase
11 from any of such persons the right-of-way over or through the same
12 to a public road or that it cannot be purchased except at an
13 exorbitant price, stating the lowest price for which the same can
14 be purchased by him or her, and ~~(4)~~ (d) asking that ~~a public access~~
15 an access road be provided in accordance with section 39-1716, the
16 county board shall appoint a time and place for hearing the matter,
17 which hearing shall be not more than thirty days after the receipt
18 of such affidavit. The application for ~~such access~~ an access road
19 may be included in a separate petition instead of in such
20 affidavit.

21 (2) For purposes of sections 39-1713 to 39-1719:

22 (a) Access road means a right-of-way open to the general
23 public for ingress to and egress from a tract of isolated land
24 provided in accordance with section 39-1716; and

1 (b) State of Nebraska includes the Board of Educational
2 Lands and Funds, Board of Regents of the University of Nebraska,
3 Board of Trustees of the Nebraska State Colleges, Department of
4 Roads, Department of Aeronautics, Department of Administrative
5 Services, and Game and Parks Commission and all other state
6 agencies, boards, departments, and commissions.

7 Sec. 5. Section 39-1714, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 39-1714. Whenever all the other conditions prescribed by
10 section 39-1713 are present and, instead of being entirely shut off
11 from all public roads, the only access by any owner of real estate
12 to any public road is by an established private road less than two
13 rods in width, the county board shall, upon the filing of an
14 affidavit or affidavit and petition asking that an access road be
15 provided in accordance with section 39-1716, substantially in the
16 manner set forth in section 39-1713, setting forth such facts,
17 appoint a time and place and hold a hearing thereon in the manner
18 set forth in section 39-1713.

19 Sec. 6. Section 39-1715, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 39-1715. When a hearing is to be held as provided in
22 sections 39-1713 and 39-1714, the county board shall cause notice
23 of the time and place of the hearing to be given by posting notices
24 thereof in three public places in the county at least ten days
25 before the time fixed therefor. At least fifteen days' written
26 notice of the time and place of the hearing shall be given to all
27 of the owners and occupants of the lands through which ~~such access~~

1 the access road may pass. The notice shall be served personally or
2 by leaving a copy thereof at the usual place of abode of each
3 occupant of such lands and, whenever possible, by either registered
4 or certified mail to the owners of such ~~land~~ lands.

5 Sec. 7. Section 39-1716, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 39-1716. (1) The county board shall, if it finds ~~(1)~~ (a)
8 that the conditions set forth in section 39-1713 or 39-1714 exist,
9 ~~(2)~~ (b) that the isolated land was not isolated at the time it was
10 purchased by the owner or that the owner acquired the land directly
11 from the State of Nebraska, ~~(3)~~ (c) that the isolation of the land
12 was not caused by the owner or by any other person with the
13 knowledge and consent of the owner, and ~~(4)~~ (d) that access is
14 necessary for existing utilization of the isolated land, proceed to
15 provide an access road ~~public access~~ and, if it finds that the
16 amount of use and the number of persons served warrants such
17 action, may lay out a public road ~~of not more than four nor less~~
18 ~~than two rods in width~~, to such real estate.

19 (2) The county board shall appraise the damages to be
20 suffered by the owner or owners of the real estate over or through
21 which the access ~~shall~~ road will be provided. Such damages shall
22 be paid by the person petitioning that ~~such access~~ the access road
23 be provided. For any real estate purchased or otherwise acquired
24 after January 1, 1982, for which public access is granted pursuant
25 to sections 39-1713 to 39-1719, the person petitioning for such
26 access shall also reimburse the county for all engineering and
27 construction costs incurred in providing such access. ~~In those~~

1 cases in which public access is granted pursuant to sections
2 ~~39-1713 to 39-1719~~, the county shall not be responsible for future
3 maintenance unless a public road was laid out.

4 (3) Notwithstanding any other provisions of law, an
5 access road provided in accordance with this section shall not be
6 subject to Chapter 39, article 20 or 21. The designation of such
7 an access road shall not impose on the State of Nebraska or any
8 political subdivision any obligation of design, construction, or
9 maintenance for the access road nor give rise to any cause of
10 action against the state or any political subdivision with respect
11 to the access road.

12 Sec. 8. Section 39-1717, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 39-1717. Whenever possible, ~~access provided pursuant to~~
15 ~~sections 39-1713 to 39-1719~~ an access road provided in accordance
16 with section 39-1716 shall be along section lines. When the most
17 practicable route for the ~~public access as provided in section~~
18 ~~39-1716 shall be~~ access road is adjacent to a watercourse, the land
19 to be taken for ~~such access~~ the access road shall be measured from
20 the edge of the watercourse.

21 Sec. 9. Section 39-1718, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 39-1718. ~~Upon the providing of public access as provided~~
24 ~~for by~~ If the county board decides to provide an access road in
25 accordance with section 39-1716, the county board shall make and
26 sign an order describing the same and file it with the county
27 clerk, together with its award of damages which order shall be

1 recorded by the clerk, except that ~~PROVIDED~~, the amount assessed
2 as damages to the owner or owners of ~~said~~ the real estate shall be
3 paid to the county treasurer before the order providing ~~such access~~
4 ~~shall be~~ for the access road is filed.

5 Sec. 10. Section 39-1718.01, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 39-1718.01. Sections 39-1713 ~~and 39-1715 to 39-1718 to~~
8 39-1719 shall not apply if public access has been granted prior to
9 July 17, 1982.

10 Sec. 11. Section 39-1719, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 39-1719. Any party to an award as provided by section
13 39-1718 may, within sixty days after the filing thereof, appeal
14 therefrom to the district court of the county where the lands lie.
15 The appeal shall be taken by serving upon the adverse party a
16 notice of such appeal and filing such notice and proof of service
17 thereof with the clerk of the court within the sixty days.
18 Thereupon the appeal shall be set down for hearing at the next term
19 of the court. It shall be heard and determined in like manner as
20 appeals from awards in condemnations as provided in sections 76-704
21 to 76-724. Such appeal shall not affect the right or authority of
22 the petitioner to the use of the ~~roadway~~ access road under the
23 award of the appraisers.

24 The applicant shall in case of appeal file such
25 additional security as may be required by the county board for such
26 costs and damages as may accrue against him or her by reason of
27 such appeal. If on appeal the appellant does not obtain a more

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1 favorable judgment and award than was given by the appraisers, such
2 appellant shall pay all the costs of such appeal. Either party to
3 such suit may appeal from the decision of the district court to the
4 Court of Appeals, and the sum deposited as provided in this section
5 shall remain in the hands of the county treasurer until a final
6 decision is had.".

7 2. Renumber the remaining sections and correct internal
8 references and the repealer accordingly.