

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 924

FINAL READING

Introduced by Fischer, 43; Baker, 44; Burling, 33; Combs, 32; Cudaback, 36; Cunningham, 40; Erdman, 47; Flood, 19; Heidemann, 1; Hudkins, 21; Kremer, 34; Louden, 49; McDonald, 41; Dw. Pedersen, 39; Schrock, 38; Smith, 48; Stuhr, 24; Stuthman, 22; Wehrbein, 2

Read first time January 5, 2006

Committee: Judiciary

A BILL

1 FOR AN ACT relating to real property; to amend sections 76-701
2 and 76-883, Reissue Revised Statutes of Nebraska; to
3 provide restrictions on the use of eminent domain; to
4 provide certain rights for purchasers of condominiums;
5 to harmonize provisions; and to repeal the original
6 sections.

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

1 Section 1. Section 76-701, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 76-701 ~~As used in sections 76-701 to 76-724, unless~~
4 ~~the context otherwise requires~~ For purposes of sections 76-701 to
5 76-726 and section 2 of this act:

6 (1) Condemner means any legal entity that by law has been
7 granted the right to exercise the power of eminent domain, and
8 includes the state and any governmental or political subdivision
9 thereof;

10 (2) Condemnee means any person, partnership, limited
11 liability company, corporation, or association owning or having
12 an encumbrance on any interest in property that is sought to be
13 acquired by a condemner or in possession of or occupying any such
14 property;

15 (3) Property means any such interest in real or personal
16 property as the condemner is empowered by law to acquire for public
17 use; and

18 (4) County judge means the county judge of the county
19 where condemnation proceedings provided by such sections 76-701 to
20 76-724 are had.

21 Sec. 2. (1) A condemner may not take property through the
22 use of eminent domain under sections 76-704 to 76-724 if the taking
23 is primarily for an economic development purpose.

24 (2) For purposes of this section, economic development
25 purpose means taking property for subsequent use by a commercial

1 for-profit enterprise or to increase tax revenue, tax base,
2 employment, or general economic conditions.

3 (3) This section does not affect the use of eminent
4 domain for:

5 (a) Public projects or private projects that make all or
6 a major portion of the property available for use by the general
7 public or for use as a right-of-way, aqueduct, pipeline, or similar
8 use;

9 (b) Removing harmful uses of property if such uses
10 constitute an immediate threat to public health and safety;

11 (c) Leasing property to a private person who occupies an
12 incidental part of public property or a public facility, such as a
13 retail establishment on the ground floor of a public building;

14 (d) Acquiring abandoned property;

15 (e) Clearing defective property title;

16 (f) Taking private property for use by a utility or
17 railroad; and

18 (g) Taking private property based upon a finding of
19 blighted or substandard conditions under the Community Development
20 Law if the private property is not agricultural land or
21 horticultural land as defined in section 77-1359.

22 Sec. 3. Section 76-883, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 76-883 (a) A person required to deliver a public-offering
25 statement pursuant to subsection (c) of section 76-879 shall

1 provide a purchaser of a unit with a copy of the public-offering
2 statement and all amendments thereto before conveyance of that unit
3 and not later than the date of any contract of sale. Unless a
4 purchaser is given the public-offering statement more than fifteen
5 days before execution of a contract for the purchase of a unit,
6 the purchaser, before conveyance, may cancel the contract within
7 fifteen days after first receiving the public-offering statement.

8 (b) After receiving the public-offering statement and
9 all amendments, a purchaser has the right to have an independent
10 inspection of the building's structure and mechanical systems
11 conducted at the purchaser's expense.

12 ~~(b)~~ (c) If a purchaser elects to cancel a contract
13 pursuant to subsection (a) of this section, he or she may do so by
14 hand-delivering notice thereof to the offeror or by mailing notice
15 thereof by mail postage prepaid to the offeror or to his or her
16 agent for service of process. Cancellation is without penalty, and
17 all payments made by the purchaser before cancellation shall be
18 refunded promptly.

19 ~~(e)~~ (d) If a person required to deliver a public-offering
20 statement pursuant to subsection (c) of section 76-879 fails
21 to provide a purchaser to whom a unit is conveyed with that
22 public-offering statement and all amendments thereto as required
23 by subsection (a) of this section, the purchaser is entitled to
24 receive damages and other relief from that person.

25 Sec. 4. Original sections 76-701 and 76-883, Reissue

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1 Revised Statutes of Nebraska, are repealed.