

AMENDMENTS TO LB341

Introduced by Erdman, 47.

1           1. Insert the following new sections:

2           Sec. 10. Section 76-701, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4           76-701 For purposes of sections 76-701 to 76-726:

5           (1) Condemnee means any person, partnership, limited liability  
6 company, corporation, or association owning or having an encumbrance on  
7 any interest in property that is sought to be acquired by a condemner or  
8 in possession of or occupying any such property;

9           (2) (1) Condemner means any legal entity that by law has been  
10 granted the right to exercise the power of eminent domain and includes  
11 the state and any governmental or political subdivision thereof;

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

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

18           (3) (4) County judge means the county judge of the county where  
19 condemnation proceedings provided by such sections are had; -

20           (4) Dilapidated means the condition of a building or structure that,  
21 due to inadequate maintenance, structural deterioration, obsolescence, or  
22 abandonment, is no longer adequate for either the purposes for which it  
23 was originally intended or for which it has been repurposed;

24           (5) Property means any such interest in real or personal property as  
25 the condemner is empowered by law to acquire for public use;

26           (6) Replacement cost includes the costs that are not included in the  
27 fair market value of the taken property that a condemnee will incur to:

1        (a) Replace any of the following taken property: Dwellings, garages,  
2 sheds, barns, wells, septic systems, fences, and any other permanent  
3 structures; or

4        (b) Rebuild, replace, or move property located on the remaining  
5 property of the condemnee that will need to be rebuilt, replaced, or  
6 moved to compensate for the taken property; and

7        (7) Severance damages includes:

8        (a) Replacement costs for any of the following that are not  
9 dilapidated: Dwellings, garages, sheds, barns, wells, septic systems,  
10 fences, and any other permanent structures; and

11        (b) The net loss in the fair market value of the remaining property  
12 of the condemnee that occurs due to the severance of the taken property  
13 from the remaining property of the condemnee.

14        Sec. 11. Section 76-710.01, Reissue Revised Statutes of Nebraska, is  
15 amended to read:

16        76-710.01 (1) Where any condemner shall have taken or attempts to  
17 take property for public use, the damages for taking such property shall  
18 be determined according to the laws of this state irrespective of whether  
19 the condemner may be reimbursed for a part of such damage from the  
20 federal government. Such and such damages shall include all compensable  
21 damages suffered by the condemnee, which shall be determined as follows:  
22 including but not limited to reasonable severance damages and condemnee's  
23 abstracting expenses.

24        (a) For any property not described in subdivision (1)(b) of this  
25 section, the damages shall include:

26        (i) The fair market value of the taken property;

27        (ii) Reasonable severance damages; and

28        (iii) The condemnee's abstracting expenses; and

29        (b) For agricultural land and real property located on agricultural  
30 land, the damages shall include:

31        (i) Two times the fair market value of the taken property;

1           (ii) Reasonable severance damages; and  
2           (iii) The condemnee's abstracting expenses.

3           (2) In determining the amount of such severance damages under  
4 subsection (1) of this section, account shall be taken, together with  
5 other relevant factors, of the economic effect, if any, caused by the  
6 severance therefrom of the part taken or sought to be taken upon the  
7 whole of such property as a going concern as it will be and remain after  
8 the severance.

9           (3) Any decrease or increase in the fair market value of real  
10 property prior to the date of valuation caused by the public improvement  
11 for which such property is acquired, or by the likelihood that the  
12 property would be acquired for such improvement, other than due to  
13 physical deterioration within the reasonable control of the owner, shall  
14 be disregarded in determining the compensation for the property.

15           (4) The county assessor for the county in which the property is to  
16 be taken shall determine if any structures that are to be taken are  
17 dilapidated. No replacement costs for any dilapidated structure are  
18 required to be paid as part of the reasonable severance damages  
19 determined under subsection (1) of this section.

20           (5) The provisions of this section shall apply to any case now or  
21 hereafter pending.

22           Sec. 14. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, 13, and 16 of this  
23 act become operative three calendar months after the adjournment of this  
24 legislative session. The other sections of this act become operative on  
25 their effective date.

26           Sec. 15. Original sections 76-701 and 76-710.01, Reissue Revised  
27 Statutes of Nebraska, are repealed.

28           Sec. 17. Since an emergency exists, this act takes effect when  
29 passed and approved according to law.

30           2. Renumber the remaining sections and correct internal references  
31 accordingly.