

LEGISLATIVE BILL 239

Approved by the Governor February 17, 1982

Introduced by Labeledz, 5; L. Johnson, 15

AN ACT to amend sections 39-1713 and 39-1715 to 39-1718, Reissue Revised Statutes of Nebraska, 1943, relating to county roads; to change provisions relating to isolated lands; to provide for public access; to provide for payment of certain costs as prescribed; and to repeal the original sections.

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

Section 1. That section 39-1713, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-1713. When any person shall present to the county board an affidavit satisfying it (1) that he or she is the owner of the real estate described therein located within the county, (2) that ~~the--same~~ such real estate is shut out from all public roads access, other than a waterway, by being surrounded on all sides by real estate belonging to other persons, or by such real estate and by water, (3) that he or she is unable to purchase from any of such persons the right-of-way over or through the same to a public road or that it cannot be purchased except at an exorbitant price, stating the lowest price for which the same can be purchased by him or her, and (4) asking that a public road access be ~~aid-out~~ provided in accordance with section 39-1716, the county board shall appoint a time and place for hearing the matter, which hearing shall be not ~~less than ten--days--nor~~ more than thirty days after the receipt of such affidavit. The application for such road access may be included in a separate petition instead of in such affidavit.

Sec. 2. That section 39-1715, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-1715. When a hearing is to be held as provided in sections 39-1713 and 39-1714 the county board shall cause notice of the time and place of the hearing to be given by posting notices thereof in three public places in the county at least ten days before the time fixed therefor. At least fifteen days' written notice of the time and place of the hearing shall be given to all of the owners and occupants of the lands through which such road access may pass. The notice shall be served personally or by leaving a copy thereof at the usual

place of abode of each occupant of such lands and, whenever possible, by either registered or certified mail to the owners of such land.

Sec. 3. That section 39-1716, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-1716. The county board shall, if it finds (1) that the conditions set forth in section 39-1713 or 39-1714 exist, (2) that the isolated land was not isolated at the time it was purchased by the owner, (3) that the isolation of the land was not caused by the owner or by any other person with the knowledge and consent of the owner, and (4) that access is necessary for existing utilization of the isolated land, proceed to provide public access and, if it finds that the amount of use and the number of persons served warrants such action, may lay out a public road of not more than four nor less than two rods in width, to such real estate, and the county board shall appraise the damages to be suffered by the owner or owners of the real estate over or through which the same access shall be laid provided. Such damages shall be paid by the person petitioning that such road access be laid-out provided. For any real estate purchased or otherwise acquired after January 1, 1982, for which public access is granted pursuant to sections 39-1713 to 39-1719, the person petitioning for such access shall also reimburse the county for all engineering and construction costs incurred in providing such access. In those cases in which public access is granted pursuant to sections 39-1713 to 39-1719, the county shall not be responsible for future maintenance unless a public road was laid out.

Sec. 4. That section 39-1717, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-1717. Whenever possible, access provided pursuant to sections 39-1713 to 39-1719 shall be along section lines. When the most practicable route for the public road-to-be-laid-out access as provided in section 39-1716 shall be adjacent to a watercourse, the land to be taken for such road access shall be measured from the edge of the watercourse.

Sec. 5. That section 39-1718, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-1718. Upon laying-out-a-road the providing of public access as provided for by section 39-1716, the

county board shall make and sign an order describing the same and file it with the county clerk, together with its award of damages which order shall be recorded by the clerk; Provided, the amount assessed as damages to the owner or owners of said real estate shall be paid to the county treasurer before the order ~~laying--out~~ providing such road access shall be filed.

Sec. 6. This act shall not apply if public access has been granted prior to the effective date of this act.

Sec. 7. That original sections 39-1713 and 39-1715 to 39-1718, Reissue Revised Statutes of Nebraska, 1943, are repealed.