

LEGISLATIVE BILL 188

Approved by the Governor April 19, 1994

Introduced by Lindsay, 9

AN ACT relating to real estate; to amend section 76-2,110, Reissue Revised Statutes of Nebraska, 1943, and section 1, Legislative Bill 441, Ninety-third Legislature, Second Session, 1994; to limit actions to cancel or invalidate conveyances subdividing real estate as prescribed; to provide for the validity of certain deeds executed by a personal representative; to change provisions relating to eminent domain; and to repeal the original sections.

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

Section 1. That section 76-2,110, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-2,110. When (1) After January 1, 1995, no action shall be maintained to set aside, cancel, annul, or declare void or invalid any conveyance, in any manner purporting to subdivide real estate, which has been recorded in the office of the register of deeds of the county in which the real estate is situated for more than five years prior to the commencement of the action on the ground that the conveyance or the recording of the conveyance has failed to comply with any requirement relating to subdivision approval. Unless the conveyance is modified or set aside by an action or proceeding commenced by January 1, 1995, or five years after the date of recording of the conveyance, whichever is later, it shall be conclusively presumed that the conveyance is fully valid notwithstanding any failure to comply with any requirement relating to subdivision approval.

(2) If any conveyance, in any manner purporting to subdivide real estate, has been or is hereafter recorded in the office of register of deeds of the county wherein such in which the real estate is situated, and the conveyance, or the recording thereof, of the conveyance has failed to comply with any requirement relating to subdivision approval and if the conveyance has not been otherwise validated under subsection (1) of this section, any party claiming an interest in such conveyance may file an affidavit with the register of deeds asserting that written notice of the defect in approval has been received by the governmental authority having subdivision approval jurisdiction over such real estate. Upon filing such affidavit, such governmental authority shall have one hundred twenty days from the receipt of such written notice to record an objection in the office of register of deeds in the county wherein in which the real estate is situated, or such conveyance shall be fully valid. If an objection is filed, the conveyance shall not be validated. The objection shall be in the form of a resolution adopted after public hearing. The governmental authority may waive, prospectively waive, or retroactively waive such notice or such one-hundred-twenty-day period, as to a single subdivision or any category of subdivisions.

(3) Notwithstanding the validity of any such conveyance under this section, the subdivider shall not thus be relieved of any penalty lawfully imposed by such governmental authority for the failure to otherwise comply with any requirement relating to subdivision approval. Any conveyance of real estate for the public use shall be valid only upon express approval of such governmental authority. Other than for purposes of validating a conveyance, this section shall not excuse compliance with applicable zoning or subdivision ordinances of the governmental authority having subdivision approval jurisdiction over such real estate.

Sec. 2. On and after September 9, 1997, no action may be maintained to set aside any deed of conveyance executed by a personal representative of an estate prior to September 9, 1993, upon the grounds that the personal representative lacked authority conferred by the will of the decedent to convey real estate without court order or that a court order authorizing the sale of the real estate was invalid.

Sec. 3. That section 1, Legislative Bill 441, Ninety-third Legislature, Second Session, 1994, be amended to read as follows:

Section 1. A city of the metropolitan, primary, first, or second class or village acquiring an interest in real property by purchase or eminent domain shall do so by ordinance only after the governing body has authorized the acquisition by action taken in a public meeting after notice and public hearing.

Sec. 4. That original section 76-2,110, Reissue Revised Statutes of Nebraska, 1943, and section 1, Legislative Bill 441, Ninety-third Legislature,