

## LEGISLATIVE BILL 917

Approved by the Governor April 24, 1978

Introduced by R. Lewis, 38; Schmit, 23; Rasmussen, 41;  
Rumery, 42; Kennedy, 21

AN ACT to amend sections 25-2501, 25-2503, 76-711, 76-719.01, 81-8,277, and 81-8,278, Reissue Revised Statutes of Nebraska, 1943, relating to eminent domain; to provide for notice as prescribed; to increase interest payments on awards; to provide for routes as prescribed; to provide for additional information in the petition; to provide an exception; to provide duties; and to repeal the original sections.

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

Section 1. That section 25-2501, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-2501. It is the intent and purpose of sections 25-2501 to 25-2506 and 70-301 to establish a uniform procedure to be used in acquiring private property for a public purpose by the State of Nebraska and its political subdivisions and by all privately-owned public utility corporations and common carriers which have been granted the power of eminent domain; Provided, that sections 25-2501 to 25-2506 and 70-301 shall not apply to:

(1) ~~Gas--and--water~~ Water transmission and distribution pipe lines and their appurtenances, common carrier pipe lines and their appurtenances, or to public utilities when acquiring property for a proposed project involving the acquisition of rights or interests in ten or fewer separately-owned tracts or when the acquisition is within the corporate limits of any city or village;

~~{2} The proposed location of electric pole--lines or underground lines with a voltage capacity of less than thirty-four-thousand-five-hundred volts;~~

{3} ~~{2}~~ Counties and municipalities which acquire property through the process of platting or subdivision or for street or highway construction or improvements;

{4} ~~{3}~~ Common carriers subject to regulation by the Federal Railroad Administration of the United States Department of Transportation; or

(5) (4) The Department of Roads when acquiring property for highway construction or improvements.

Sec. 2. That section 25-2503, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-2503. Any agency which proposes to acquire private property for a public purpose shall give notice of such proposed acquisition at least ninety forty-five days before beginning negotiations for such acquisition. The notice shall be directed to each owner of property over or across which any right or interest is to be acquired, and shall be deemed properly given if delivered personally or mailed by registered or certified mail addressed to the property owner and to the address shown on the tax records in the office of the county treasurer; Provided, that such notice shall be sufficient if given to the administrator or executor of the estate of a deceased person, the trustee of a trust estate, the guardian of the estate of a minor or incompetent person, or a conservator. The notice shall (1) describe the property proposed to be acquired and the compensation to be given for such property, (2) include a statement of the authority for the acquisition, (3) include the nature of and necessity and purpose for which the land shall be used, (4) include the title, right, or interest in the property to be acquired, (5) specify the amount of property needed for the public purpose, (6) include the reasons for selecting the proposed location or route, and (7) state that if approval of any other agency is required, the condemner shall set forth which other agency's approval shall be necessary and, when the acquisition involves a highway, power line, phone line, or similar project, shall include a map showing the proposed route to be followed by the project.

Sec. 3. That section 76-711, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-711. The condemner shall not acquire any interest in or right to possession of the property condemned until he has deposited with the county judge for the use of the condemnee the amount of the condemnation award in effect at the time the deposit is made. The condemner shall have sixty days from the date of the award of the appraisers to deposit with the county judge the amount of the award or the proceeding will be considered as abandoned. When the amount of the award is deposited with the county judge by the condemner, the condemner will be deemed to have accepted the award, unless he gives notice of appeal from the award of the

appraisers pursuant to section 76-715. If the proceeding is abandoned, proceedings may not again be instituted by the condemner to condemn the property within two years from the date of abandonment. If an appeal is taken from the award of the appraisers by the condemnee and the condemnee obtains a greater amount than that allowed by the appraisers, the condemnee shall be entitled to interest from the date of the deposit with the county judge at the rate of six nine per cent per annum on the amount finally allowed less interest at the same rate on the amount withdrawn, or on the amount which the condemner offers to stipulate for withdrawal, as provided by the provisions of section 76-719.01. If an appeal is taken from the award of the appraisers by the condemner, the condemnee shall be entitled to interest from the date of deposit with the county judge at the rate of six nine per cent per annum on the amount finally allowed, less interest at the same rate on the amount withdrawn, or on the amount which the condemner offers to stipulate for withdrawal, as provided by section 76-719.01, which provision shall apply to all appeals by the condemner pending on June 6, 1961. Upon deposit of the condemnation award with the county judge, the condemner shall be entitled to a writ of assistance to place him in possession of the property condemned.

Sec. 4. That section 76-719.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-719.01. Upon stipulation of the parties in interest, the county judge shall order that the amount stipulated by the parties, of the money deposited by the condemner in the county court, be paid forthwith for or on account of the damages the condemnee has sustained or will sustain by the appropriation of the property to the use of the condemner. If all the parties in interest waive the right of appeal, the county judge shall distribute the money deposited by the condemner forthwith in accordance with the award of the appraisers and as soon as deposited by the condemner. If the compensation finally awarded in respect to the said property shall be less than the amount of the money so received by the condemnee, the court shall enter judgment against the condemnee for the amount that the condemnee has been overpaid, together with interest at six nine per cent per annum from the date of withdrawal.

Sec. 5. Whenever a condemner seeks to acquire lands or interest therein through eminent domain proceedings to construct power transmission lines through or over land devoted to agricultural purposes, such condemner shall be required to select a route along or

following sections or one half section lines unless such route cannot be followed without excessive and unreasonable costs to the condemner.

Sec. 6. A petition filed pursuant to section 76-704, shall include:

(1) A statement of the authority for the acquisition;

(2) The nature of and necessity and purpose for which the land will be used;

(3) The title, right, or interest in the property to be acquired;

(4) The quantity needed to fulfill the public purpose for which taken;

(5) Reasons for selecting the particular location or route;

(6) Evidence of attempts to negotiate in good faith with the property owner; and

(7) If approval of any other agency is required the condemner should set forth the approval in writing of such agency.

Sec. 7. That section 81-8,277, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-8,277. Sections 81-8,276 to 81-8,287 shall not apply to:

(1) Real estate appraisers who are salaried employees of:

(a) The federal government;

(b) Any bank, building and loan association, or small loan company licensed by the state or supervised or regulated by or through federal enactments covering financial institutions; Provided, that any person so employed who also practices as an independent real estate appraiser for others shall be subject to sections 81-8,276 to 81-8,287 and be licensed prior to engaging in such other appraising; or

(c) Any agency of the state government or political subdivision which appraises real estate;

(2) A licensed real estate broker or a licensed real estate salesman, who is exempt from the provisions of sections 81-8,276 to 81-8,287 where he appraises real estate in the ordinary course of his real estate brokerage business, except when a separate fee is paid therefor;

(3) A trainee employed either directly or indirectly by a licensed real estate appraiser; or

(4) Any person or any employee thereof, who renders an estimate or opinion of value of real estate or any interest therein when such estimate or opinion of value is for the purpose of real estate taxation; or

(5) Any person who renders an estimate or opinion of value of real estate or any interest therein or damages thereto when such estimate or opinion is offered as testimony in any condemnation proceeding.

Sec. 8. That section 81-8,278, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-8,278. (1) The commission shall have the following powers and duties:

(a) To receive applications for and issue licenses to real estate appraisers pursuant to the provisions of sections 81-8,276 to 81-8,287;

(b) To keep a record of its proceedings and a complete roster of all persons licensed by it and entitled to practice such occupation in this state;

(c) To make all necessary regulations pursuant to the provisions of sections 81-8,276 to 81-8,287 for the pursuit of the occupation within its jurisdiction for the preservation of the welfare of the public including the establishing of minimum standards for appraisals;

(d) To investigate any violations of the provisions of sections 81-8,276 to 81-8,287 or of regulations issued pursuant thereto, hold hearings thereon, and take testimony relating thereto;

(e) To make certified copies of any documents or records of the commission which, when attested as a true copy by the commission, shall be competent evidence in any court in the state of the facts contained therein; and

(f) To do all things necessary to carry out the provisions of sections 81-8,276 to 81-8,287. The commission shall employ such clerical and technical assistance as may be necessary to properly administer sections 81-8,276 to 81-8,287.

(2) The commission shall have prepared annually a roster showing the names, places of business, residences, and classifications of all licensed real estate appraisers, a copy to be furnished to each appraiser licensed under the provisions of sections 81-8,276 to 81-8,287. Copies of such roster shall be available to the public upon application to the commission, at such price per copy as may be fixed by the commission.

(3) The commission shall issue to each licensee a license certificate and pocket card in such size and form as it may approve. The license and card shall remain the property of the state and, upon suspension or revocation pursuant to sections 81-8,276 to 81-8,287, shall be returned immediately to the commission.

(4) The commission shall maintain and keep open to public inspection during office hours a complete indexed report of all applications, licenses issued, licenses renewed, and all revocations, cancellations, and suspensions of licenses.

Sec. 9. That original sections 25-2501, 25-2503, 76-711, 76-719.01, 81-8,277, and 81-8,278, Reissue Revised Statutes of Nebraska, 1943, are repealed.