

LEGISLATIVE BILL 924

Approved by the Governor April 13, 2006

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

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

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

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

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

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

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

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

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

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

(2) For purposes of this section, economic development purpose means taking property for subsequent use by a commercial for-profit enterprise or to increase tax revenue, tax base, employment, or general economic conditions.

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

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

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

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

(d) Acquiring abandoned property;

(e) Clearing defective property title;

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

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

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

76-883 (a) A person required to deliver a public-offering statement pursuant to subsection (c) of section 76-879 shall provide a purchaser of a unit with a copy of the public-offering statement and all amendments thereto before conveyance of that unit and not later than the date of any contract of sale. Unless a purchaser is given the public-offering statement more than fifteen days before execution of a contract for the purchase of a unit, the purchaser, before conveyance, may cancel the contract within fifteen days after first receiving the public-offering statement.

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

~~(b)~~ (c) If a purchaser elects to cancel a contract pursuant to subsection (a) of this section, he or she may do so by hand-delivering notice thereof to the offeror or by mailing notice thereof by mail postage prepaid to the offeror or to his or her agent for service of process. Cancellation is

without penalty, and all payments made by the purchaser before cancellation shall be refunded promptly.

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

Sec. 4. Original sections 76-701 and 76-883, Reissue Revised Statutes of Nebraska, are repealed.