

AMENDMENTS TO LB901

Introduced by Transportation and Telecommunications.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 3-402, Revised Statutes Cumulative Supplement,
4 2016, is amended to read:

5 3-402 As used in sections 3-401 to 3-409, unless the context
6 otherwise requires:

7 ~~(1) Structure means any manmade object which is built, constructed,~~
8 ~~projected, or erected upon, from, and above the surface of the earth,~~
9 ~~including, but not limited to, towers, antennas, buildings, wires,~~
10 ~~cables, and chimneys;~~

11 (1) ~~(2)~~ Meteorological evaluation tower means an anchored structure,
12 including all guy wires and accessory facilities, on which one or more
13 meteorological instruments are mounted for the purpose of meteorological
14 data collection;

15 (2) ~~(3)~~ Obstruction means any structure which obstructs the air
16 space required for the flight of aircraft and in the landing and taking
17 off of aircraft at any airport or restricted landing area; ~~and~~

18 (3) ~~(4)~~ Person means any public utility, public district, or other
19 governmental division or subdivision or any person, corporation,
20 partnership, or limited liability company; ~~-~~

21 (4) Structure means any manmade object which is built, constructed,
22 projected, or erected upon, from, and above the surface of the earth,
23 including, but not limited to, towers, antennas, buildings, wires,
24 cables, and chimneys; and

25 (5) Terrain flight training area means an area established by the
26 Nebraska National Guard within which military and related flight training
27 is conducted using rotary-wing aircraft and which existed as of the

1 effective date of this act.

2 Sec. 2. Section 3-404, Revised Statutes Supplement, 2017, is amended
3 to read:

4 3-404 (1) The application for the permit, required by section
5 3-403, shall be made in writing on forms prescribed by the Division of
6 Aeronautics of the Department of Transportation and shall contain or be
7 accompanied by details as to the location, construction, height, and
8 dimensions of the proposed structure, the nature of its intended use, and
9 such other information as the Director of Aeronautics may require. If the
10 proposed structure is proposed to be built inside the boundaries of or
11 within one thousand meters of the boundaries of any terrain flight
12 training area, the application for a permit shall be accompanied by a
13 written mitigation agreement between the applicant, the United States
14 Department of Defense Siting Clearinghouse, and the Nebraska National
15 Guard.

16 (2) Upon the filing of an such application, the director shall make
17 an investigation and an aeronautical study of such proposed construction
18 and its effect, if any, upon air navigation, and the health, welfare, and
19 safety of the public. In making such investigation and aeronautical study
20 and making his or her determination under this section, the director
21 shall consider (a) the character of flying operations expected to be
22 conducted in the area concerned, (b) the nature of the terrain, (c) the
23 character of the neighborhood, (d) the uses to which the property
24 concerned is devoted or adaptable, (e) the proximity to existing
25 airports, airways, control areas, and control zones, (f) the height of
26 existing adjacent structures, and (g) all the facts and circumstances
27 existing at the time of application.

28 (3) If the director, upon such investigation, determines shall
29 ~~determine~~ that such proposed structure will not constitute a hazard to
30 air navigation and will not interfere unduly with the public right of
31 freedom of transit in commerce through the air space affected thereby,

1 the director shall issue to the applicant a permit, required by section
2 3-403, authorizing the erection and construction of such structure,
3 subject to such conditions as to marking and lighting as the division may
4 prescribe by its rules and regulations, authorized by section 3-407. The
5 director shall impose only such restrictions or requirements as may be
6 reasonably necessary to effectuate sections 3-401 to 3-409. If the
7 director does not so determine, the director shall deny the application.
8 ~~In making such investigation, aeronautical study, and determination, the~~
9 ~~director shall consider (1) the character of flying operations expected~~
10 ~~to be conducted in the area concerned, (2) the nature of the terrain, (3)~~
11 ~~the character of the neighborhood, (4) the uses to which the property~~
12 ~~concerned is devoted or adaptable, (5) the proximity to existing~~
13 ~~airports, airways, control areas, and control zones, (6) the height of~~
14 ~~existing adjacent structures, and (7) all the facts and circumstances~~
15 ~~existing. The director shall impose only such restrictions or~~
16 ~~requirements as may be reasonably necessary to effectuate the purposes of~~
17 ~~sections 3-401 to 3-409.~~

18 (4) On or before August 1, 2018, the Nebraska National Guard shall
19 provide the Division of Aeronautics of the Department of Transportation a
20 description of the boundaries of the terrain flight training areas by
21 metes and bounds or an official map that shows the boundaries of the
22 terrain flight training areas. The description or map shall be used by
23 the division in its management of the airspace of the State of Nebraska
24 pursuant to sections 3-401 to 3-409.

25 Sec. 3. Original section 3-402, Revised Statutes Cumulative
26 Supplement, 2016, and section 3-404, Revised Statutes Supplement, 2017,
27 are repealed.