

LEGISLATIVE BILL 901

Approved by the Governor April 17, 2018

Introduced by Bostelman, 23; Albrecht, 17; Brewer, 43; Briese, 41; Clements, 2; Erdman, 47; Friesen, 34; Geist, 25; Groene, 42; Halloran, 33; Hilgers, 21; Hughes, 44; Kolterman, 24; Linehan, 39; Lowe, 37; Murante, 49; Thibodeau, 6.

A BILL FOR AN ACT relating to aeronautics; to amend section 3-402, Revised Statutes Cumulative Supplement, 2016, and section 3-404, Revised Statutes Supplement, 2017; to define a term; to change permit application and issuance requirements relating to regulation of certain structures by the Division of Aeronautics of the Department of Transportation; to provide a duty for the Nebraska National Guard as prescribed; to harmonize provisions; and to repeal the original sections.

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

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

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

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

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

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

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

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

(5) Terrain flight training area means an area established by the Nebraska National Guard within which military and related flight training is conducted using rotary-wing aircraft and which existed as of the effective date of this act.

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

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

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

(3) If the director, upon such investigation, determines shall determine that such proposed structure will not constitute a hazard to air navigation and will not interfere unduly with the public right of freedom of transit in commerce through the air space affected thereby, the director shall issue to the applicant a permit, required by section 3-403, authorizing the erection and construction of such structure, subject to such conditions as to marking and lighting as the division may prescribe by its rules and regulations, authorized by section 3-407. The director shall impose only such restrictions or requirements as may be reasonably necessary to effectuate sections 3-401 to 3-409. If the director does not so determine, the director shall deny the application. In making such investigation, aeronautical study, and determination, the director shall consider (1) the character of flying

~~operations expected to be conducted in the area concerned, (2) the nature of the terrain, (3) the character of the neighborhood, (4) the uses to which the property concerned is devoted or adaptable, (5) the proximity to existing airports, airways, control areas, and control zones, (6) the height of existing adjacent structures, and (7) all the facts and circumstances existing. The director shall impose only such restrictions or requirements as may be reasonably necessary to effectuate the purposes of sections 3-401 to 3-409.~~

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

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