

LEGISLATIVE BILL 1448

Approved by the Governor March 29, 1972

Introduced by Ellen E. Craft, 45th District

AN ACT relating to acquisition of property by public agencies; to provide for payment of certain expenses of condemnees when condemnation is denied or abandoned; to provide that payments to displaced persons shall not be considered as income or resources; to authorize payments to displaced persons from funds available for land acquisition; to amend section 76-710.01, Revised Statutes Supplement, 1969; to change the measure of damages; to repeal the original section; and to declare an emergency.

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

Section 1. The court having jurisdiction of a proceeding, instituted by an agency as defined in section 76-1201, to acquire real property by condemnation shall award the owner of any right, title, or interest in such real property such sum as will in the opinion of the court reimburse such owner for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees actually incurred because of the condemnation proceedings, if (1) the final judgment is that the agency cannot acquire the real property by condemnation; or (2) the proceeding is abandoned by the agency. If a settlement is effected by an agency, the court may award to the plaintiff reasonable expenses, fees, and costs.

Sec. 2. No payment received by a displaced person pursuant to sections 76-1201 to 76-1212 shall be considered as income or resources for the purpose of determining the eligibility or extent of eligibility of any person for assistance under any state law, or for the purposes of the state's income tax laws or other tax laws. Such payments shall not be considered as income or resources of any recipient of public assistance, and such payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled.

Sec. 3. Any funds which have been appropriated by or to any agency, as defined in section 76-1201, for the acquisition of real property or any interest therein for a particular program or project shall also be available for expenditure to carry out the provisions of sections 76-1201 to 76-1212 and section 1 of this act, as

applied to such program or project.

Sec. 4. That section 76-710.01, Revised Statutes Supplement, 1969, be amended to read as follows:

76-710.01. Where any condemner shall have taken or attempts to take property for public use, the damages for taking such property shall be determined according to the laws of this state irrespective of whether the condemner may be reimbursed for a part of such damage from the federal government and such damages shall include all compensable damages suffered by the condemnee including but not limited to reasonable severance damages ~~and the reasonable cost of any necessary removal of personal property of any party occupying such property, irrespective of the length of term of his tenancy, from the real estate being taken~~ and condemnee's abstracting expenses. In determining the amount of such severance damages, account shall be taken, together with other relevant factors, of the economic effect, if any, caused by the severance therefrom of the part taken or sought to be taken upon the whole of such property as a going concern as it will be and remain after the severance. Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than due to physical deterioration within the reasonable control of the owner, shall be disregarded in determining the compensation for the property. The provisions of this section shall apply to any case now or hereafter pending.

Sec. 5. That original section 76-710.01, Revised Statutes Supplement, 1969, is repealed.

Sec. 6. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.