

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 353

Introduced by Lautenbaugh, 18.

Read first time January 15, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to civil procedure; to amend section 34-301,
2 Reissue Revised Statutes of Nebraska; to change pleading
3 provisions in an action for disputed corners and
4 boundaries; and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 34-301, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 34-301 When one or more owners of land, the corners and
4 boundaries of which are lost, destroyed, or in dispute, desire
5 to have the same established, they may bring an action in the
6 district court of the county where such lost, destroyed, or
7 disputed corners or boundaries, or part thereof, are situated,
8 against the owners of the other tracts which will be affected by
9 the determination or establishment thereof, to have such corners or
10 boundaries ascertained and permanently established. If any public
11 road is likely to be affected thereby, the proper county shall be
12 made defendant. Notice of such action shall be given as in other
13 cases, and if the defendants or any of them are nonresidents of
14 the state, or unknown, they may be served by publication as is
15 provided by law. The action shall be a special one, and the only
16 necessary pleading therein shall be the ~~petition~~ complaint of the
17 plaintiff describing the land involved, and, so far as may be, the
18 interest of the respective parties and asking that certain corners
19 and boundaries therein described, as accurately as may be, shall be
20 established. Either the plaintiff or defendant may, by proper plea,
21 put in issue the fact that certain alleged boundaries or corners
22 are the true ones, or that such have been recognized and acquiesced
23 in by the parties or their grantors for a period of ten consecutive
24 years, which issue shall be tried before the district court under
25 its equity jurisdiction without the intervention of a jury, and

1 appeals from such proceedings shall be had and taken in conformity
2 with the equity rules.

3 Sec. 2. Original section 34-301, Reissue Revised Statutes
4 of Nebraska, is repealed.