

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 785

Introduced by Carlson, 38; Utter, 33.

Read first time January 07, 2010

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to natural resources districts; to amend
2 section 46-739.01, Revised Statutes Supplement, 2009; to
3 provide an exception to required approval of certain
4 water transfers or program participation; and to repeal
5 the original section.

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

1 Section 1. Section 46-739.01, Revised Statutes
2 Supplement, 2009, is amended to read:

3 46-739.01 (1) Notwithstanding any other provision of law,
4 no district shall approve a transfer of certified water uses
5 or certified irrigated acres or allow a ground water user or
6 landowner to participate in a financial or other incentive program
7 established pursuant to subsection (8) of section 46-739 unless
8 the person seeking such transfer or participation in such program
9 has submitted to the district a report of title issued by an
10 attorney or a registered abstractor, on a form prescribed by the
11 district, reflecting (a) the owner and legal description of the
12 land from which the certified water uses or certified irrigated
13 acres are to be transferred or which is the subject of such program
14 and (b) the existence of all liens, evidenced by the filing of
15 a mortgage, trust deed, or other equivalent consensual security
16 interest, against the land from which the certified water uses
17 or certified irrigated acres are to be transferred or which is
18 the subject of such program and the name and address of each
19 such lienholder, if any. If the report of title reflects the
20 existence of any lien evidenced by the filing of a mortgage, trust
21 deed, or other equivalent consensual security interest, written
22 consent to such transfer or participation in such program shall be
23 obtained from each such lienholder. The district may assess a fee
24 against the person seeking such transfer or participation in such
25 program to recoup its costs in reviewing the report of title. This

1 subsection does not apply to a one-time transfer of ground water
2 or participation in a financial or other incentive program that
3 involves the transfer, purchase, or retirement of four certified
4 irrigated acres or less.

5 (2) Approval of a transfer of certified water uses or
6 certified irrigated acres or authorization of a ground water user
7 or landowner to participate in such financial or other incentive
8 program by a district shall not affect the rights of any lienholder
9 who is not reflected in the report of title and from whom the
10 required consent was not obtained. Such a lienholder may bring an
11 action against the person seeking such transfer or participation
12 in such program for damages or injunctive or other relief for any
13 injury done to the lienholder's interest in land or use of ground
14 water resulting from such transfer or participation.

15 (3) This section does not limit the right to resort to
16 other means of review, redress, or relief provided by law.

17 Sec. 2. Original section 46-739.01, Revised Statutes
18 Supplement, 2009, is repealed.