

1 SEC. 9. Should any section of this act, or part thereof, be held
2 unconstitutional or invalid, such decision shall affect only the spe-
3 cific provisions which may be held invalid or unconstitutional and
4 shall not affect the validity of the remaining portions of this act.

1 SEC. 10. This act, being adopted to meet an emergency, and be-
2 ing deemed of immediate importance, shall be in full force and effect
3 from and after its publication in The Wheatland Gazette, a news-
4 paper published at Wheatland, Iowa, and the Radcliffe Signal, a
5 newspaper published at Radcliffe, Iowa.

House File No. 257. Approved March 9, 1934.

I hereby certify that the foregoing act was published in The Wheatland Gazette,
March 14, 1934, and Radcliffe Signal, March 15, 1934.

MRS. ALEX MILLER, *Secretary of State.*

CHAPTER 98

LEVEE AND DRAINAGE DISTRICTS. APPOINTMENT OF CONSERVATOR

S. F. 233

AN ACT to provide for the appointment of a conservator for a drainage district, levee district, drainage and levee district, drainage and levee district with pumping stations in default to holders of bonds issued by such districts in default; to provide for the issuance of conservator's bonds by such districts to the bondholders; to provide for adequate proceedings in the district court, and to provide for notices and writs incident to the operation of this act; and defining the meaning of the term "drainage district" for the purpose of this act.

Be it enacted by the General Assembly of the State of Iowa:

1 SECTION 1. When drainage district bonds have been issued in
2 anticipation of the collection of drainage district assessments levied
3 on real estate within such drainage district are in default, either
4 for failure to pay principal installments or accrued interest thereon,
5 and funds are not on hand within thirty days after such default, ten
6 owners of real estate in such district or the owners of not less than
7 ten (10) per cent in amount of the outstanding drainage bonds of
8 such district may make application to the district court of the county
9 wherein said drainage district is located, asking for an extension of
10 time of payment, and a re-amortization of the assessments on the
11 real estate within such drainage district, which was in default, and
12 a new schedule of payments of the bonds and other indebtedness,
13 and the issuance of new bonds as provided by this act.

1 SEC. 2. Ten (10) owners of real estate in such district, or the
2 owners of not less than ten (10) per cent in amount of the outstand-
3 ing drainage bonds of such drainage district, may institute pro-
4 ceedings in the district court of the county issuing such bonds
5 wherein the drainage district is located, by filing a petition which
6 shall set forth the names and addresses of the ten (10) petitioning
7 real estate owners or the names and addresses of the petitioning
8 owners of ten (10) per cent in amount of the drainage bonds of
9 said district, that said bonds are in default as defined in section one,

10 of this act, that the petitioners have good reason to believe that
11 said default cannot, or will not, be removed by payment under the
12 present schedule of said district, and asking that the matters herein
13 presented, be reviewed by the court, and determined as provided
14 by this act.

1 SEC. 3. On the filing of such petition the judge for said court,
2 either in session, or in vacation, shall enter an order fixing the date
3 for hearing, which date shall be at least four weeks subsequent to
4 the date of the filing of the order.

1 SEC. 4. The board of supervisors of such county or counties
2 wherein the drainage district is located, shall be notified of the pro-
3 ceeding and hearing by original notice served in the same manner
4 as in civil actions; notice of said hearing shall be served upon all
5 owners of each tract of land or lot within such drainage district,
6 as shown by the transfer books in the county auditor's office; each
7 lienholder or encumbrancer of any land within the said drainage
8 district as shown by the county records, and all persons holding
9 claims against said drainage district, as shown by the county rec-
10 ords, and also to all other persons to whom it may concern, includ-
11 ing bondholders and actual occupants of the land within said drain-
12 age district, without naming individuals, by publication thereof,
13 once each week for two consecutive weeks, in some newspaper of
14 general circulation in the county or counties where said drainage
15 district is located, the last of which publications shall be not less
16 than twenty days prior to the date set for hearing on the said pe-
17 tition, and when such notice is complete, shall be deemed a sufficient
18 notice for all hearings and proceedings under this act. Proof of
19 such service shall be made by affidavit of the publisher and be on
20 file with the county auditor on or before the date of hearing.

1 SEC. 5. The district court shall have jurisdiction and power to
2 adjudicate all the rights and issues between the drainage district,
3 and the landowners, bondholders, lienholders, encumbrancers, claim-
4 ants and creditors of the drainage district, and in determining the
5 rights of the parties, shall take into consideration, the maturity of
6 the bonds, the interest rate of the bonds, the present schedule and
7 classification of assessments on the real estate, the ratio between the
8 amount in default, and the amount of unpaid assessments in the
9 drainage district, the gross amount needed to retire the bonds now
10 outstanding and in default, the current retirement schedule on
11 other indebtedness of the drainage district, the general tax struc-
12 ture of the drainage district, the unpaid taxes in the drainage dis-
13 trict, the default by the drainage district in the payment of its
14 bonded indebtedness, and the current financial condition of the tax-
15 payers.

1 SEC. 6. If the court finds that the necessary parties have insti-
2 tuted the proceedings, and that all necessary parties have been prop-
3 erly served with notice, and the order of the court, and that the
4 drainage district is in default in the payment of its installment
5 assessments, or the interest thereon, the court shall enter an order
6 appointing the county auditor of the county in which such drainage

7 district is located, or if such drainage district is located in more
8 than one county, the county auditor of the county wherein the
9 greater portion of the lands within said drainage district are located,
10 receiver for the said drainage district, said receiver being hereafter
11 called "conservator", and the said conservator shall be under the
12 court's direction. The conservator shall be allowed such compensa-
13 tion as may be determined by the court, and said conservator may
14 employ, under the direction and approval of the court, an attorney,
15 and such assistants as may be necessary to perform the duties re-
16 quired by him under the law, and orders of court.

1 SEC. 7. The conservator shall, within thirty days from the date
2 of his appointment, prepare and file with the clerk of the district
3 court, a full report, giving in detail, the bonded indebtedness of said
4 drainage district, the accrued interest thereon, and any and all other
5 indebtedness owing by said drainage district; a full and complete
6 schedule of all lands sold at tax sale, including the amount of drain-
7 age assessments thereon; a list of all real estate within the drainage
8 district, showing the unpaid assessments thereon; also said con-
9 servator shall set forth a schedule, under which the bonded indebted-
10 ness of said drainage district may be re-amortized; also a schedule
11 under which all other indebtedness of said drainage district may
12 be paid or re-amortized. Upon the filing of the report by the con-
13 servator, the court shall set a date for hearing thereon, which date
14 shall not be less than ten or more than fifteen days, from the filing
15 thereof.

1 SEC. 8. At the hearing of the conservator's report, the court shall
2 fix and determine the amount of money in the hands of the county
3 treasurer belonging to said drainage district; the amount of the in-
4 debtedness of said drainage district; to whom said indebtedness is
5 due, and fix and determine the time, manner and priority of pay-
6 ment of said indebtedness; also the court shall fix and determine the
7 amount of unpaid assessment or assessments against each tract of
8 land within said drainage district, and may extend the time of pay-
9 ment, re-amortize and re-allocate the said assessments upon each
10 tract of land within said drainage district; also, if the court finds
11 that the assessments as levied against each tract of land within said
12 drainage district, are not sufficient to pay the indebtedness due and
13 owing by said drainage district, the court may order the board of
14 supervisors of the county within which the said drainage district
15 is located, to levy an assessment against the lands within said drain-
16 age district, in an amount to pay the deficit; provided, however,
17 that no assessment for the payment of drainage bonds or improve-
18 ment certificates shall be levied against any tract of land where the
19 owner of said land is not delinquent in payment of any assessment
20 and provided, further, that the amount of the reassessment on a par-
21 ticular piece of land shall be in direct proportion to the amount of
22 unpaid assessments on said land and provided, further, that no assess-
23 ment or expenses incidental thereto, for the payment of drainage
24 bonds or improvement certificates under this act, shall be levied
25 against any tract of land where the owner of said land had pre-
26 viously paid all of his assessment. Said assessment to be assessed

27 and levied by the board of supervisors upon the lands within said
28 drainage district, in the same proportion as the original assessment.
29 A copy of said order entered by the court, shall be filed by the clerk
30 of the district court with the county auditor, and the schedule of
31 payments of the indebtedness of said drainage district as fixed and
32 determined by the court, shall be entered upon the drainage records
33 of the drainage district and also spread upon the tax records of the
34 county, and shall become due and payable at the same time as ordi-
35 nary taxes, and shall be collected in the same manner with the same
36 penalties for delinquency, and the same manner of enforcing col-
37 lection by tax sale. Also the court may apportion the costs between
38 the creditors of the drainage district, and the drainage district.

1 SEC. 9. The court shall direct the board of supervisors to issue
2 bonds in lieu of the outstanding drainage bonds for said drainage
3 district, and additional bonds for the accrued interest and other
4 indebtedness of said drainage district. Said bonds shall be payable
5 in amounts, and at the time and manner, and with priority of pay-
6 ments as has been determined by order of court, as provided by sec-
7 tion 8 hereof, and shall be called "conservator's drainage district
8 bonds." Each bond shall be numbered and shall state on its face
9 that it is a conservator's drainage district bond; that it is issued
10 in pursuance of a resolution adopted by the board of supervisors,
11 under order of court, and giving the name of the court and the
12 county where such court is held; that it is issued to pay indebtedness
13 of the drainage district; shall state the county where such district
14 is located, and the number of the drainage district for which it is
15 issued; shall state the date of maturity of the bond, the rate of
16 interest thereon, which rate shall not be less than 3½ per cent per
17 annum, and that the bond is to be paid only from taxes assessed,
18 levied and collected on the lands within the drainage district for
19 which the bond is issued subject to the provisions of section eight
20 (8). All bonds shall be signed by the chairman of the board of
21 supervisors and countersigned by the conservator designated as such.
22 The interest coupons attached to said bonds shall be attested by the
23 signature of the conservator or a facsimile thereof. When the bonds
24 have been executed as herein required, the conservator may sell
25 said bonds at not less than par with accrued interest thereon, and
26 pay the indebtedness of said drainage district, or may exchange
27 said bonds with the creditors of said drainage district in amounts
28 as has been fixed and determined by the court, and the conservator
29 shall cancel all drainage bonds, improvement certificates, warrants
30 or other evidence of indebtedness received by him in lieu of the
31 conservator's bonds.

1 SEC. 10. When conservator's drainage district bonds are issued
2 hereunder, nothing herein, shall be construed as impairing the lien
3 of all unpaid assessments upon the real estate within said drainage
4 district, nor shall this chapter be construed as impairing the pri-
5 ority of the lien thereof, nor the right, duty and power of the officer
6 authorized by law, to levy, collect and apply the proceeds thereof,
7 to the payment of outstanding drainage bonds issued in anticipation
8 of the collection thereof.

1 SEC. 11. Should a drainage district in default be managed by
2 drainage district trustees, said trustees shall also be named as proper
3 and necessary parties defendant.

1 SEC. 12. No action shall be brought, questioning the validity of
2 any conservator's drainage district bond issued under this chapter
3 from and after three months from the date of the order causing the
4 said bonds to be issued.

1 SEC. 13. This act, being deemed of immediate importance, shall
2 be in force and effect after its passage and publication, as provided
3 by law, in the Mason City Globe-Gazette, a newspaper published in
4 Mason City, Iowa, and in the Winterset Madisonian, a newspaper
5 published in Winterset, Iowa.

Senate File No. 233. Approved March 1, 1934.

I hereby certify that the foregoing act was published in the Mason City Globe-Gazette, March 6, 1934, and Winterset Madisonian, March 15, 1934.

MRS. ALEX MILLER, *Secretary of State.*

CHAPTER 99

LEVEE AND DRAINAGE DISTRICT. SURPLUS REFUND

H. F. 316

AN ACT to amend section one (1), chapter one hundred forty (140), acts of the Forty-fifth General Assembly, which section amended section seventy-four hundred eighty-nine (7489), Code of 1931, and to permit the board of supervisors having control of a drainage district to refund, under certain circumstances, all of the surplus funds on hand to the persons having paid the assessments creating said surplus.

Be it enacted by the General Assembly of the State of Iowa:

1 SECTION 1. That the law as it appears in section seventy-four
2 hundred eighty-nine (7489), Code of 1931, and as amended by chap-
3 ter one hundred forty (140), laws of the Forty-fifth General As-
4 ssembly, is hereby amended by inserting, at the end of the first para-
5 graph of said section after the last word thereof, the following
6 words:

7 "except that where all construction work has been completed and
8 all assessments paid in full the board of supervisors may refund
9 all of the remaining surplus to the persons paying the assessments."

1 SEC. 2. This act, being deemed of immediate importance, shall
2 be in full force and effect after its passage and publication in the
3 Odebolt Chronicle, a newspaper published at Odebolt, Iowa, and in
4 the Sigourney Review, a newspaper published at Sigourney, Iowa.

House File No. 316. Approved February 14, 1934.

I hereby certify that the foregoing act was published in the Sigourney Review, February 21, 1934, and the Odebolt Chronicle, February 22, 1934.

MRS. ALEX MILLER, *Secretary of State.*