

March 31, 1967
Passed on File
Pls. Calendar 4-5

Senate File 693

By COMMITTEE ON CONSERVATION
AND RECREATION

Passed Senate, Date 5-26-67 ^{Failed} ~~Passed~~ House, Date 6-20-67
Vote: Ayes 45 Nays 3 Vote: Ayes 52 Nays 50

Approved _____

motion to reconsider filed 6-20, lost 6-22

A BILL FOR

An Act relating to publicly held conservation interests in private property.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. When used in this Act, unless the context other-
2 wise requires:

3 1. "Conservation interest" means a right, interest, privi-
4 lege or restriction which is acquired in privately owned real
5 estate by a public agency under the provisions of this Act. A
6 conservation interest is either affirmative or negative and is
7 less than a fee simple.

8 2. "Affirmative conservation interest" means a conservation
9 interest whereunder public use of privately owned land is per-
10 mitted for one (1) or more particular, specified purposes, in-
11 cluding, but not limited to, fishing, hunting, trapping, camping,
12 hiking, horseback riding, maintenance and development of forest,
13 wet-land, slough, prairie or game or wild life propagation areas.

14 3. "Negative conservation interest" means a conservation
15 interest whereunder a particular use or uses of privately owned
16 land are prohibited or limited, including, but not limited to,
17 prohibitions or limitations against lumbering, tree cutting,
18 clearing, cultivation, grazing, filling, draining, mowing, hunt-
19 ing, burning, fishing, trapping, dumping, tiling, bill board
20 erection, or residential, commercial, industrial or other develop-
21 ment.

22 4. "Open area" means any space or area, whether or not pri-
23 vately owned, as to which, in which or relating to which the
24 acquisition of one (1) or more conservation interests pursuant to
25 this Act would, or would tend to, in the judgment of the public
26 agency acquiring such conservation interest or interests:

27 a. Maintain or enhance the conservation or preservation of
28 natural or scenic resources.

29 b. Protect streams, lakes, fisheries or ponds.

30 c. Preserve riparian lands, beaches, or shores.

31 d. Conserve wet lands, marshes, sloughs, water supplies, soil,
32 forests, wild life, or wild life habitat.

33 e. Enhance the value to the public of abutting or neighboring
34 parks, forests, wild life preserves, nature reservations or sanc-
35 tuaries, or other open space areas.

36 f. Afford or enhance public outdoor recreation opportunities.

37 g. Implement the plan of development or zoning adopted by the
38 zoning commission or similar body of any city, town, or county.

39 h. Preserve historic sites.

40 i. Promote orderly urban or suburban development.

41 5. "Public agency" means each of the following:

42 a. The state conservation commission.

43 b. The Iowa natural resources council.

44 c. Any county conservation board.

45 d. Any city or town.

46 e. The board of park commissioners established under chapter
47 three hundred seventy (370) of the Code.

1 Sec. 2. A public agency may acquire one (1) or more conservation
2 interests as to, in or relating to an open area by purchase, gift,
3 grant, lease, devise, contract or other voluntary transfer. Any
4 public agency acquiring a conservation interest shall have the
5 custody, control, management, and jurisdiction thereof notwithstand
6 ing that title to such conservation interest may, pursuant to sect-
7 tion three (3) of this Act, not be taken in the name of such public
8 agency.

1 Sec. 3. Title to a conservation interest shall be taken in the

2 same name as is otherwise provided by law with respect to fees
3 simple obtained by the public agency acquiring such conserva-
4 tion interest.

1 Sec. 4. In the conveyance, contract to sell or letting of
2 real estate owned by or under the custody, control, and manage-
3 ment of a public agency, one (1) or more conservation interests
4 may be reserved in the name of the grantor, vendor, or lessor
5 and a deed, contract, or lease may be conditioned or limited
6 upon the observance by the grantee, vendee, or lessee and his
7 successors and assigns of the rights under such conservation
8 interests.

1 Sec. 5. A conservation interest shall be deemed to be an
2 interest in the real estate burdened thereby and shall by its
3 terms be perpetual or for a term certain or which will end upon
4 an event certain to occur. An instrument, granting, conveying,
5 or reserving a conservation interest shall be deemed an instru-
6 ment affecting real estate. A conservation interest shall be
7 transferable, to the extent herein provided, and enforceable
8 notwithstanding it be in gross. The interest shall run with the
9 land which it burdens except against subsequent purchasers for
10 a valuable consideration of such land without notice, actual or
11 constructive, of such conservation interest, the term "purchasers"
12 having the same meaning as under section five hundred fifty-eight
13 point forty-one (558.41) of the Code. A conservation interest
14 shall not be subject to the provisions of sections six hundred
15 fourteen point twenty-four (614.24) through six hundred fourteen
16 point twenty-eight (614.28) of the Code. A public agency may not
17 transfer or cause to be transferred any conservation interest
18 except to or for the benefit of another public agency or to the
19 owner of the land burdened thereby.

1 Sec. 6. Nothing in this Act shall be construed to limit, en-
2 large, or affect the provisions of any laws, ordinances, or regu-
3 lations now or hereafter in effect respecting zoning or to imply
4 that any restriction or regulation imposed pursuant to or by any
5 zoning law, ordinance, or regulation constitutes a compensable

6 taking, notwithstanding that such restriction or regulation re-
7 sembles in effect or terms the effect or terms of a conservation
8 interest. Nor shall anything in this Act be construed to narrow
9 rights otherwise held by any public agency to acquire property
10 by voluntary transfer or condemnation.

1 Sec. 7. Section four hundred forty-one point twenty-one
2 (441.21), Code 1966, is hereby amended by inserting in line
3 sixteen (16) after the word "matters" the words ", including the
4 effect of any conservation interest burdening such property,".

1 Amend Senate File 693, Section 2, by inserting in line
2 eight (8) after the period the following: "Nothing contained
3 in this Act shall be construed as granting to any public agency,
4 as defined in subsection five (5) of Section 1 of this Act,
5 the right of condemnation by eminent domain, and no such public
6 agency shall have the right of condemnation for the purpose of
7 this Act."

Filed - *Adopted 6-30*
June 15, 1967

TIEDEN of Clayton.