

Reprinted 4/18

FILED MAR 20 1979

SENATE FILE 435

By COMMITTEE ON CITIES  
*Approved 2/21 (p. 909)*

Passed Senate, Date 4-11-79 (p. 1191) Passed House, Date \_\_\_\_\_  
Vote: Ayes 48 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

### A BILL FOR

1 An Act relating to the establishment of historical preservation  
2 districts in cities.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Chapter three hundred three (303), Code 1979,  
2 is amended by adding the following new section following  
3 section three hundred three point thirty-three (303.33):

4 NEW SECTION. If a city has a zoning commission appointed  
5 pursuant to section four hundred fourteen point six (414.6)  
6 of the Code, the provisions of sections three hundred three  
7 point twenty (303.20) to three hundred three point thirty-  
8 three (303.33) of the Code do not apply to the area within  
9 the city or to the area extending beyond the city limits to  
10 which the powers granted under chapter four hundred fourteen  
11 (414) of the Code may be extended as provided in section four  
12 hundred fourteen point twenty-three (414.23) of the Code.  
13 However, this section does not apply to an area which is part  
14 of a district on the effective date of this Act until the  
15 area ceases to be part of a district.

16 Sec. 2. Section four hundred fourteen point one (414.1),  
17 Code 1979, is amended to read as follows:

18 414.1 BUILDING RESTRICTIONS--POWERS GRANTED. For the  
19 purpose of promoting the health, safety, morals, or the general  
20 welfare of the community or for the purpose of preserving  
21 historically significant areas of the community, any city  
22 is hereby empowered to regulate and restrict the height,  
23 number of stories, and size of buildings and other structures,  
24 the percentage of lot that may be occupied, the size of yards,  
25 courts, and other open spaces, the density of population,  
26 and the location and use of buildings, structures, and land  
27 for trade, industry, residence, or other purposes.

28 Sec. 3. Section four hundred fourteen point two (414.2),  
29 Code 1979, is amended to read as follows:

30 414.2 DISTRICTS. For any or all of said purposes the  
31 local legislative body, hereinafter referred to as the council,  
32 may divide the city into districts, including historical  
33 preservation districts, of such number, shape, and area as  
34 may be deemed best suited to carry out the purposes of this  
35 chapter; and within such districts it may regulate and restrict

1 the erection, construction, reconstruction, alteration, repair,  
2 or use of buildings, structures, or land. All such regulations  
3 and restrictions shall be uniform for each class or kind of  
4 buildings throughout each district, but the regulations in  
5 one district may differ from those in other districts.

6 Sec. 4. This Act is effective January first following  
7 its enactment.

8 EXPLANATION

9 This bill provides that the provisions of chapter 303  
10 dealing with historical preservation districts shall not apply  
11 to cities that have a zoning commission unless an area is  
12 already part of a historical preservation district. Because  
13 of concern that the cities may not have the power to zone  
14 for a historical preservation district under chapter 414,  
15 that chapter is amended to allow for that power.

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SENATE FILE 435

S-3282

1 Amend Senate File 435 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting in lieu thereof the following:

4 "Section 1. Section three hundred three point  
5 twenty-one (303.21), Code 1979, is amended to read  
6 as follows:

7 303.21 PETITION. Not less than ten percent of  
8 the eligible voters in an area of asserted historical  
9 significance may petition the division and the zoning  
10 commission of a city that has a zoning commission  
11 appointed pursuant to section four hundred fourteen  
12 point six (414.6) of the Code for a referendum for  
13 the establishment of a district.

14 The petition shall contain a description of the  
15 property suggested for inclusion in the district,  
16 and the reasons justifying the creation of the  
17 district.

18 Sec. 2. Section three hundred three point twenty-  
19 two (303.22), Code 1979, is amended to read as follows:

20 303.22 ACTION BY DIVISION AND BY ZONING COMMISSION.

21 The division and the zoning commission in the case  
22 of a city which has a zoning commission appointed  
23 pursuant to section four hundred fourteen point six  
24 (414.6) of the Code shall hold a joint hearing not  
25 less than thirty days or more than sixty days after  
26 the petition is received. The division shall publish  
27 notice of the hearing, at a reasonable time before  
28 the hearing is to take place, and shall post notice  
29 of the hearing in a reasonable number of places within  
30 the suggested district. The cost of notification  
31 shall be paid by the persons who petition for the  
32 establishment of a district.

33 At the hearing the division and the zoning  
34 commission shall hear interested persons, accept  
35 written presentations, and the division shall determine  
36 whether the suggested district is an area of historical  
37 significance which may properly be established as  
38 a historical preservation district pursuant to the  
39 provisions of this division of this chapter. The  
40 division may determine the boundaries which shall  
41 be established for the district. The division shall  
42 not include property which is not included in the  
43 suggested district unless the owner of such property  
44 is given an opportunity to be heard.

45 The division, if it determines that the suggested  
46 district meets the criteria for establishment as a  
47 historical preservation district, shall indicate the  
48 owners of the property and residents included and  
49 shall forward a list of such owners and residents  
50 to the ~~county-commissioner-of-elections~~ zoning

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1 commission, in the case of a city which has a zoning  
2 commission appointed pursuant to section four hundred  
3 fourteen point six (414.6) of the Code.

4 If the division determines that the suggested  
5 district does not meet the criteria for establishment  
6 as a historical preservation district, it shall so  
7 notify the petitioners.

8 Sec. 3. Chapter three hundred three point twenty-  
9 two (303.22), Code 1979, is amended by adding the  
10 following new unnumbered paragraphs:

11 NEW UNNUMBERED PARAGRAPH. If the division has  
12 determined that the suggested district meets the  
13 criteria for establishment as a historical preservation  
14 district, and if the city in which the suggested  
15 district is located has a zoning commission appointed  
16 pursuant to section four hundred fourteen point six  
17 (414.6) of the Code, then representatives of the  
18 division and the zoning commission shall meet within  
19 fourteen days following the public hearing held  
20 pursuant to section three hundred three point twenty-  
21 two (303.22) of the Code. The zoning commission shall  
22 present to the division its objections, if any, to  
23 establishment of the suggested district, and the  
24 division and the zoning commission shall attempt to  
25 reach agreement concerning those objections. If the  
26 division and the zoning commission are unable to reach  
27 agreement within fourteen days, the city development  
28 board established in chapter three hundred sixty-  
29 eight (368) of the Code shall review the objections  
30 of the zoning commission and determine within thirty  
31 days whether the suggested district should be  
32 established, pursuant to section four (4) of this  
33 Act.

34 NEW UNNUMBERED PARAGRAPH. If the city does not  
35 have a zoning commission appointed pursuant to section  
36 four hundred fourteen point six (414.6) of the Code,  
37 or if the zoning commission has no objection to  
38 establishment of the suggested district, or if the  
39 city development board approves establishment of the  
40 suggested district, then the division shall immediately  
41 forward a list of the owners of the property and  
42 residents included within the suggested district to  
43 the county commissioner of elections.

44 Sec. 4. Chapter three hundred sixty-eight (368),  
45 Code 1979, is amended by adding the following new  
46 section:

47 NEW SECTION. HISTORICAL PRESERVATION DISTRICTS.  
48 The board shall review the objections of city zoning  
49 commissions to establishment of historical preservation  
50 districts pursuant to chapter three hundred three

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1 (303) of the Code if such objections are raised.  
2 The board shall determine within thirty days whether  
3 the suggested district shall be established. In  
4 making its determination, the board shall consider  
5 whether the suggested district is an area of historical  
6 significance as defined in section three hundred three  
7 point twenty (303.20) of the Code and whether failure  
8 to establish the suggested historical preservation  
9 district would best serve the interests of the citizens  
10 of the city to avoid urban sprawl and discourage  
11 demolition of irreplaceable historical landmarks and  
12 other structures of historical significance. The  
13 board shall notify the division of historical  
14 preservation and the zoning commission of its  
15 determination. The board's determination may be  
16 appealed pursuant to section three hundred sixty-eight  
17 point twenty-two (368.22) of the Code."

S-3282 FILED *Adopted* BY TOM SLATER  
MARCH 26, 1979 *amended by* ARTHUR A. SMALL

*2414 4/11 (4/11/79)*

SENATE FILE 435

S-3414

Amend the amendment, S-3282, to Senate File 435 as follows:

1. Page 1, by striking everything after line 3 and inserting in lieu thereof the following:

"Section 1. Chapter three hundred three (303), Code 1979, is amended by adding the following new section following section three hundred three point thirty-three (303.33):

NEW SECTION. The provisions of section three hundred three point twenty (303.20) to three hundred three point thirty-three (303.33) of the Code do not apply within the limits of a city. However, in order for a city to designate an area which is deemed to merit preservation as an area of historical significance, the following shall apply:

1. An area of historical significance shall be proposed by the governing body of the city on its own motion or upon the receipt by the governing body of a petition signed by residents of the city. The city shall submit a description of the proposed area of historical significance or the petition describing the proposed area, if the proposed area is a result of the receipt of a petition, to the division of historical preservation of the Iowa state historical department which shall determine if the proposed area meets the criteria provided in subsection two (2) of this section and may make recommendations concerning the proposed area. Any recommendations made by the division of historical preservation shall be made available by the city to the public for viewing during normal working hours at a city government place of public access.

2. A city shall not designate an area as an area of historical significance unless it contains contiguous pieces of property under diverse ownership which meets the criteria specified in section three hundred three point twenty (303.20), subsection one (1), paragraphs a through f, of the Code.

3. A city may provide by ordinance for the establishment of a commission to deal with matters involving areas of historical significance but shall provide by ordinance for such commission upon the enactment of the ordinance designating an area as an area of historical significance as required in subsection four (4) of this section. Upon the establishment of the commission the city shall provide by ordinance for the method of appointment, the number, and terms, of members of the commission and for the duties and powers of the commission. The commission shall contain not less than three members. The members

1 of the commission shall be appointed with due regard  
 2 to proper representation of residents and property  
 3 owners of the city and their relevant fields of  
 4 knowledge including but not limited to history, urban  
 5 planning, architecture, archeology, law, and sociology.  
 6 The commission shall have the power to approve or  
 7 deny applications for proposed alterations to exterior  
 8 features within an area designated as an area of  
 9 historical significance. An aggrieved party may  
 10 appeal the commission's action to the governing body  
 11 of the city. If not satisfied by the decision of  
 12 the governing body, the party may appeal within sixty  
 13 days of the governing body's decision to the district  
 14 court for the county in which the designated area is  
 15 located. On appeal the governing body or the district  
 16 court as the case may be shall consider whether the  
 17 commission has exercised its powers and followed the  
 18 guidelines established by the law and ordinance, and  
 19 whether the commission's action was patently arbitrary  
 20 or capricious.

21 4. An area shall only be designated an area of  
 22 historical significance upon enactment of an ordinance  
 23 of the city. Before such an ordinance is enacted  
 24 or an amendment thereto, the governing body of the  
 25 city shall submit such ordinance or amendment to the  
 26 division of historical preservation of the Iowa state  
 27 historical department for its review and  
 28 recommendations.

29 Sec. 2. Section four hundred fourteen point one  
 30 (414.1), Code 1979, is amended to read as follows:

31 414.1 BUILDING RESTRICTIONS--POWERS GRANTED.  
 32 For the purpose of promoting the health, safety,  
 33 morals, or the general welfare of the community or  
 34 for the purpose of preserving historically significant  
 35 areas of the community, any city is hereby empowered  
 36 to regulate and restrict the height, number of stories,  
 37 and size of buildings and other structures, the  
 38 percentage of lot that may be occupied, the size of  
 39 yards, courts, and other open spaces, the density  
 40 of population, and the location and use of buildings,  
 41 structures, and land for trade, industry, residence,  
 42 or other purposes.

43 Sec. 3. Section four hundred fourteen point two  
 44 (414.2), Code 1979, is amended to read as follows:

45 414.2 DISTRICTS. For any or all of said purposes  
 46 the local legislative body, hereinafter referred to  
 47 as the council, may divide the city into districts,  
 48 including historical preservation districts but only  
 49 as provided in section one (1) of this Act, of such  
 50 number, shape, and area as may be deemed best suited

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1 to carry out the purposes of this chapter; and within  
 2 such districts it may regulate and restrict the  
 3 erection, construction, reconstruction, alteration,  
 4 repair, or use of buildings, structures, or land.  
 5 All such regulations and restrictions shall be uniform  
 6 for each class or kind of buildings throughout each  
 7 district, but the regulations in one district may  
 8 differ from those in other districts."



1 Section 1. Chapter three hundred three (303), Code 1979,  
2 is amended by adding the following new section following  
3 section three hundred three point thirty-three (303.33):

4 NEW SECTION. The provisions of section three hundred three  
5 point twenty (303.20) to three hundred three point thirty-  
6 three (303.33) of the Code do not apply within the limits  
7 of a city. However, in order for a city to designate an area  
8 which is deemed to merit preservation as an area of historical  
9 significance, the following shall apply:

10 1. An area of historical significance shall be proposed  
11 by the governing body of the city on its own motion or upon  
12 the receipt by the governing body of a petition signed by  
13 residents of the city. The city shall submit a description  
14 of the proposed area of historical significance or the petition  
15 describing the proposed area, if the proposed area is a result  
16 of the receipt of a petition, to the division of historical  
17 preservation of the Iowa state historical department which  
18 shall determine if the proposed area meets the criteria  
19 provided in subsection two (2) of this section and may make  
20 recommendations concerning the proposed area. Any  
21 recommendations made by the division of historical preservation  
22 shall be made available by the city to the public for viewing  
23 during normal working hours at a city government place of  
24 public access.

25 2. A city shall not designate an area as an area of  
26 historical significance unless it contains contiguous pieces  
27 of property under diverse ownership which meets the criteria  
28 specified in section three hundred three point twenty (303.20),  
29 subsection one (1), paragraphs a through f, of the Code.

30 3. A city may provide by ordinance for the establishment  
31 of a commission to deal with matters involving areas of  
32 historical significance but shall provide by ordinance for  
33 such commission upon the enactment of the ordinance designating  
34 an area as an area of historical significance as required  
35 in subsection four (4) of this section. Upon the establishment

1 of the commission the city shall provide by ordinance for  
 2 the method of appointment, the number, and terms, of members  
 3 of the commission and for the duties and powers of the  
 4 commission. The commission shall contain not less than three  
 5 members. The members of the commission shall be appointed  
 6 with due regard to proper representation of residents and  
 7 property owners of the city and their relevant fields of  
 8 knowledge including but not limited to history, urban planning,  
 9 architecture, archeology, law, and sociology. The commission  
 10 shall have the power to approve or deny applications for  
 11 proposed alterations to exterior features within an area  
 12 designated as an area of historical significance. An aggrieved  
 13 party may appeal the commission's action to the governing  
 14 body of the city. If not satisfied by the decision of the  
 15 governing body, the party may appeal within sixty days of  
 16 the governing body's decision to the district court for the  
 17 county in which the designated area is located. On appeal  
 18 the governing body or the district court as the case may be  
 19 shall consider whether the commission has exercised its powers  
 20 and followed the guidelines established by the law and  
 21 ordinance, and whether the commission's action was patently  
 22 arbitrary or capricious.

23 4. An area shall only be designated an area of historical  
 24 significance upon enactment of an ordinance of the city.  
 25 Before such an ordinance is enacted or an amendment thereto,  
 26 the governing body of the city shall submit such ordinance  
 27 or amendment to the division of historical preservation of  
 28 the Iowa state historical department for its review and  
 29 recommendations.

30 Sec. 2. Section four hundred fourteen point one (414.1),  
 31 Code 1979, is amended to read as follows:

32 414.1 BUILDING RESTRICTIONS--POWERS GRANTED. For the  
 33 purpose of promoting the health, safety, morals, or the general  
 34 welfare of the community or for the purpose of preserving  
 35 historically significant areas of the community, any city

1 is hereby empowered to regulate and restrict the height,  
2 number of stories, and size of buildings and other structures,  
3 the percentage of lot that may be occupied, the size of yards,  
4 courts, and other open spaces, the density of population,  
5 and the location and use of buildings, structures, and land  
6 for trade, industry, residence, or other purposes.

7 Sec. 3. Section four hundred fourteen point two (414.2),  
8 Code 1979, is amended to read as follows:

9 414.2 DISTRICTS. For any or all of said purposes the  
10 local legislative body, hereinafter referred to as the council,  
11 may divide the city into districts, including nistorical  
12 preservation districts but only as provided in section one  
13 (1) of this Act, of such number, shape, and area as may be  
14 deemed best suited to carry out the purposes of this chapter;  
15 and within such districts it may regulate and restrict the  
16 erection, construction, reconstruction, alteration, repair,  
17 or use of buildings, structures, or land. All such regulations  
18 and restrictions shall be uniform for each class or kind of  
19 buildings througout each district, but the regulations in  
20 one district may differ from those in other districts.

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H-5183

1 Amend Senate File 435, as amended, passed, and  
 2 reprinted by the Senate, as follows:  
 3 1. Page 2, line 9, by inserting after the word  
 4 "sociology." the following: "Not more than one  
 5 member of a city zoning commission appointed  
 6 pursuant to chapter four hundred fourteen (414) of  
 7 the Code may be appointed to the commission of an  
 8 area of historical significance."

H-5183 FILED

BY LLOYD-JONES of Johnson

FEBRUARY 7, 1980

*Adopted as amended**by 5:45 2/26 (p. 653)*

SENATE FILE 435

H-5280

1 Amend Senate File 435 as amended, passed and  
 2 reprinted by the Senate as follows:  
 3 1. Page 2, by inserting after line 29 the  
 4 following:

528/5 "5. If a petition signed by ten percent of  
 6 qualified electors residing in the area opposing the  
 7 designation is presented to the city, the city must  
 8 submit the question of designating the area to a  
 9 referendum of the qualified electors residing in the  
 10 proposed area. If the area was proposed by a petition  
 11 signed by a majority of the qualified electors residing  
 12 in the proposed area, the proposal shall not be subject  
 13 to a referendum. Upon receipt of the petition, the  
 14 governing body of the city shall notify the county  
 15 commissioner of elections who shall fix a date not  
 16 more than forty-five days from the receipt of the  
 17 petition for the referendum. The county commissioner  
 18 of elections shall specify the polling place within  
 19 the proposed area that will best serve the convenience  
 20 of the voters and shall appoint from residents of  
 21 the proposed district three judges and two clerks  
 22 of election. The county commissioner of elections  
 23 shall post notice of the referendum in a reasonable  
 24 number of places within the proposed area a reasonable  
 25 time before it is to take place. The notice shall  
 26 state the purpose of the referendum, a description  
 27 of the proposed area, the date of the referendum,  
 28 the location of the polling place, and the hours when  
 29 the polls will open and close. If a majority of those  
 30 voting at the referendum votes against the designation  
 31 of the area, the city shall not designate the area."

H-5280 FILED

BY LORENZEN of Scott

FEBRUARY 21, 1980

SPEAR of Lee

*Adopted as amended by 5:28**5:29 2/25 (p. 642)*

SENATE FILE 435

H-5281

1 Amend amendment H-5280 to Senate File 435 as  
 2 follows:

3 1. Page 1, line 5, by inserting after the word  
 4 "by" the words "not less than".

H-5281 FILED

*Adopted 2/25 (p. 642)* BY SPEAR of Lee

FEBRUARY 21, 1980

H-5279

1 Amend Senate File 435 as amended, passed and  
 2 reprinted by the Senate as follows:  
 3 1. Page 2, line 9, by inserting after the word  
 4 "sociology." the words "At least one resident of each  
 5 designated area of historical significance shall be  
 6 appointed to the commission. Not more than one member  
 7 of a city zoning commission appointed pursuant to  
 8 chapter four hundred fourteen (414) of the Code may  
 9 be appointed to the commission."

H-5279 FILED

BY LORENZEN of Scott

FEBRUARY 21, 1980

*Adopted as amended by 5312*  
*2/26 (p. 653)*

SENATE FILE 435

H-5285

1 Amend Senate File 435, as amended, passed,  
 2 and reprinted by the Senate, as follows:  
 3 1. By striking everything after the enacting  
 4 clause and inserting in lieu thereof the following:  
 5 "Section 1. Chapter three hundred three (303),  
 6 sections twenty (20) through thirty-three (33) are  
 7 hereby repealed."  
 8 2. By amending the title page, line 2, by  
 9 inserting after the word "cities" the words "and  
 10 counties".

H-5285 FILED

BY RITSEMA of Sioux

FEBRUARY 21, 1980

*Love 2/25 (p 640)*

FEBRUARY 26, 1980  
PAGE FOUR

SENATE FILE 435

H-5295

1 Amend the amendment, H-5183, to Senate File  
2 435 as follows:  
3 1. Page 1, by striking lines 3 through 8 and  
4 inserting in lieu thereof the following:  
5 "1. Page 2, line 9, by inserting after the word  
6 "sociology." the following: "Not more than one-third  
7 of the members of the commission of an area of  
8 historical significance may be members of a city  
9 zoning commission appointed pursuant to chapter  
10 four hundred fourteen (414) of the Code."

H-5295 FILED  
FEBRUARY 25, 1980  
*Adopted 2/26 (p. 652)*

BY CONNORS of Polk  
LLOYD-JONES of Johnson

SENATE FILE 435

H-5291

1 Amend H-5285 to Senate File 435 as follows:  
2 1. By inserting after line 7 the following:  
3 "Section 2. The purpose of this bill is to  
4 allow cities and counties to exercise their home  
5 rule authority in the establishment of historical  
6 preservation districts. This intent section is  
7 not to be placed in the Code."

H-5291 FILED  
FEBRUARY 25, 1980  
LOST (p. 640)

BY RITSEMA of Sioux

SENATE FILE 435

H-5290

1 Amend the Lorenzen and Spear amendment H-5280 to  
2 Senate File 435 as follows:  
3 1. Page 1, by striking line 20 and inserting in  
4 lieu thereof the words "of the voters. If there is  
5 no building or facility within the proposed area  
6 suitable and available for use as a polling place,  
7 the county commissioner may specify a polling place  
8 outside the proposed area in substantially the manner  
9 prescribed by section forty-nine point ten (49.10),  
10 subsection three (3) of the Code. The county  
11 commissioner shall appoint from residents of".  
12 2. Page 1, by striking from lines 21 and 22 the  
13 words "three judges and two clerks of election" and  
14 inserting in lieu thereof the words "an election board  
15 of at least three members".

H-5290 FILED  
FEBRUARY 25, 1980  
ADOPTED (p. 642)

BY SPEAR of Lee

SENATE FILE 435

H-5296

- 1 Amend Senate File 435, as amended, passed and
- 2 reprinted as follows:
- 3 1. Page 2, by striking lines 25 through 29.

H-5296 FILED *Lost (p. 653)* BY JOHNSON of Linn  
FEBRUARY 25, 1980  
*Adopted to reinsert*

SENATE FILE 435

H-5312

- 1 Amend Amendment H-5279, by striking lines 6 through
- 2 9 and inserting in lieu thereof the following: "appointed
- 3 to the commission."

H-5312 FILED BY LORENZEN of Scott  
FEBRUARY 26, 1980  
Adopted *(p. 653)*

SENATE FILE 435

S-5726

1 Amend the House amendment S-5501 to Senate File  
2 435 as amended, passed and reprinted by the Senate  
3 as follows:  
4 1. Page 1, by striking lines 6 through 48 and  
5 inserting in lieu thereof: "appointed to the commission.  
6 Cities with a population of more than fifty thousand  
7 shall not appoint more than one-third of the members  
8 to the commission of an area of historical significance  
9 that are members of a city zoning commission appointed  
10 pursuant to chapter four hundred fourteen (414) of  
11 the Code.""

S-5726 FILED

APRIL 14, 1980

ADOPTED (p. 142)

BY BOB CARR

A. R. BUD KUDART

SENATE AMENDMENT TO  
HOUSE AMENDMENT TO  
SENATE FILE 435

H-6074

1 Amend the House amendment, S-5501, to Senate File  
2 435 as amended, passed and reprinted by the Senate  
3 as follows:  
4 1. Page 1, by striking lines 6 through 48 and  
5 inserting in lieu thereof the following: "appointed to  
6 the commission. Cities with a population of more than  
7 fifty thousand shall not appoint more than one-third of  
8 the members to the commission of an area of historical  
9 significance that are members of a city zoning commission  
10 appointed pursuant to chapter four hundred fourteen (414)  
11 of the Code.""

H-6074 FILED APRIL 15, 1980

*ad.*

RECEIVED FROM THE SENATE

*Have concurred 4/22 (p. 192)*

SENATE CLIP SHEET

MARCH 25, 1980

HOUSE AMENDMENT TO SENATE FILE 435

S-5501

1 Amend Senate File 435 as amended, passed and  
2 reprinted by the Senate as follows:

3 1. Page 2, line 9, by inserting after the word  
4 "sociology." the words "At least one resident of each  
5 designated area of historical significance shall be  
6 appointed to the commission."

7 2. Page 2, line 9, by inserting after the word  
8 "sociology." the following: "Not more than one-third  
9 of the members of the commission of an area of  
10 historical significance may be members of a city  
11 zoning commission appointed pursuant to chapter four  
12 hundred fourteen (414) of the Code."

13 3. Page 2, by inserting after line 29 the  
14 following:

15 "5. If a petition signed by not less than ten  
16 percent of qualified electors residing in the area  
17 opposing the designation is presented to the city,  
18 the city must submit the question of designating the  
19 area to a referendum of the qualified electors residing  
20 in the proposed area. If the area was proposed by  
21 a petition signed by a majority of the qualified  
22 electors residing in the proposed area, the proposal  
23 shall not be subject to a referendum. Upon receipt  
24 of the petition, the governing body of the city shall  
25 notify the county commissioner of elections who shall  
26 fix a date not more than forty-five days from the  
27 receipt of the petition for the referendum. The  
28 county commissioner of elections shall specify the  
29 polling place within the proposed area that will best  
30 serve the convenience of the voters. If there is  
31 no building or facility within the proposed area  
32 suitable and available for use as a polling place,  
33 the county commissioner may specify a polling place  
34 outside the proposed area in substantially the manner  
35 prescribed by section forty-nine point ten (49.10),  
36 subsection three (3) of the Code. The county  
37 commissioner shall appoint from residents of the  
38 proposed district an election board of at least three  
39 members. The county commissioner of elections shall  
40 post notice of the referendum in a reasonable number  
41 of places within the proposed area a reasonable time  
42 before it is to take place. The notice shall state  
43 the purpose of the referendum, a description of the  
44 proposed area, the date of the referendum, the location  
45 of the polling place, and the hours when the polls  
46 will open and close. If a majority of those voting  
47 at the referendum votes against the designation of  
48 the area, the city shall not designate the area."

S-5501 FILED  
MARCH 24, 1980

RECEIVED FROM THE HOUSE

*Senate refused to concur 2/27 (8. 117)  
motion to reconsider  
Senate amended & concurred 4/14 (8. 142)*

SENATE FILE 435

AN ACT

RELATING TO THE ESTABLISHMENT OF HISTORICAL PRESERVATION DISTRICTS IN CITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Chapter three hundred three (303), Code 1979, is amended by adding the following new section following section three hundred three point thirty-three (303.33):

NEW SECTION. The provisions of section three hundred three point twenty (303.20) to three hundred three point thirty-three (303.33) of the Code do not apply within the limits of a city. However, in order for a city to designate an area which is deemed to merit preservation as an area of historical significance, the following shall apply:

1. An area of historical significance shall be proposed by the governing body of the city on its own motion or upon the receipt by the governing body of a petition signed by residents of the city. The city shall submit a description of the proposed area of historical significance or the petition describing the proposed area, if the proposed area is a result of the receipt of a petition, to the division of historical preservation of the Iowa state historical department which shall determine if the proposed area meets the criteria provided in subsection two (2) of this section and may make recommendations concerning the proposed area. Any recommendations made by the division of historical preservation

shall be made available by the city to the public for viewing during normal working hours at a city government place of public access.

2. A city shall not designate an area as an area of historical significance unless it contains contiguous pieces of property under diverse ownership which meets the criteria specified in section three hundred three point twenty (303.20), subsection one (1), paragraphs a through f, of the Code.

3. A city may provide by ordinance for the establishment of a commission to deal with matters involving areas of historical significance but shall provide by ordinance for such commission upon the enactment of the ordinance designating an area as an area of historical significance as required in subsection four (4) of this section. Upon the establishment of the commission the city shall provide by ordinance for the method of appointment, the number, and terms, of members of the commission and for the duties and powers of the commission. The commission shall contain not less than three members. The members of the commission shall be appointed with due regard to proper representation of residents and property owners of the city and their relevant fields of knowledge including but not limited to history, urban planning, architecture, archeology, law, and sociology. At least one resident of each designated area of historical significance shall be appointed to the commission. Cities with a population of more than fifty thousand shall not appoint more than one-third of the members to the commission of an area of historical significance that are members of a city zoning commission appointed pursuant to chapter four hundred fourteen (414) of the Code. The commission shall have the power to approve or deny applications for proposed alterations to exterior features within an area designated as an area of historical significance. An aggrieved party may appeal the commission's action to the governing body of the city. If not satisfied by the decision of the governing body, the party may appeal

within sixty days of the governing body's decision to the district court for the county in which the designated area is located. On appeal the governing body or the district court as the case may be shall consider whether the commission has exercised its powers and followed the guidelines established by the law and ordinance, and whether the commission's action was patently arbitrary or capricious.

4. An area shall only be designated an area of historical significance upon enactment of an ordinance of the city. Before such an ordinance is enacted or an amendment thereto, the governing body of the city shall submit such ordinance or amendment to the division of historical preservation of the Iowa state historical department for its review and recommendations.

Sec. 2. Section four hundred fourteen point one (414.1), Code 1979, is amended to read as follows:

414.1 BUILDING RESTRICTIONS--POWERS GRANTED. For the purpose of promoting the health, safety, morals, or the general welfare of the community or for the purpose of preserving historically significant areas of the community, any city is hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.

Sec. 3. Section four hundred fourteen point two (414.2), Code 1979, is amended to read as follows:

414.2 DISTRICTS. For any or all of said purposes the local legislative body, hereinafter referred to as the council, may divide the city into districts, including historical preservation districts but only as provided in section one (1) of this Act, of such number, shape, and area as may be deemed best suited to carry out the purposes of this chapter; and within such districts it may regulate and restrict the

erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All such regulations and restrictions shall be uniform for each class or kind of buildings throughout each district, but the regulations in one district may differ from those in other districts.

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TERRY E. BRANSTAD  
President of the Senate

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WILLIAM H. HARBOR  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 435, Sixty-eighth General Assembly.

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FRANK J. STORK  
Secretary of the Senate

Approved May 13, 1980

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ROBERT D. RAY  
Governor