

# House Amendment 3327

## Amendment Text

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1 1 Amend [House File 166](#) as follows:  
1 2 #1. By striking everything after the enacting  
1 3 clause and inserting the following:  
1 4 "Section 1. NEW SECTION. 651A.1 WHO MAY BRING  
1 5 ACTION.  
1 6 An action to recover just compensation for an  
1 7 inverse condemnation of private farm property may be  
1 8 brought by any person having an ownership interest in  
1 9 the private farm property.  
1 10 Sec. 2. NEW SECTION. 651A.2 DEFINITIONS.  
1 11 As used in this chapter, unless the context  
1 12 otherwise requires:  
1 13 1. "Constitutional taking" means that due to a  
1 14 governmental action, private farm property is taken in  
1 15 such a manner that compensation to the owner is  
1 16 required by either the fifth or fourteenth amendment  
1 17 to the Constitution of the United States, or article  
1 18 I, section 18, of the Constitution of the State of  
1 19 Iowa.  
1 20 2. "Farm operation" means a condition or activity  
1 21 which occurs on a farm in connection with the  
1 22 production of agricultural commodities, including, but  
1 23 not limited to, the raising, harvesting, drying, or  
1 24 storage of crops; the maintenance of pasture or  
1 25 grassland; the care or feeding of livestock including  
1 26 poultry; the handling or transportation of crops or  
1 27 livestock including poultry; the production of eggs or  
1 28 milk; the production of fruit or other horticultural  
1 29 crops; the treatment or disposal of wastes resulting  
1 30 from livestock; the creation of noise, odor, dust, or  
1 31 fumes; the operation of machinery and irrigation  
1 32 pumps; ground and aerial seeding and spraying; the  
1 33 application of pesticides as defined in section 206.2;  
1 34 and the employment and use of labor.  
1 35 3. a. "Governmental action" means any of the  
1 36 following:  
1 37 (1) Rules of a state agency adopted pursuant to  
1 38 chapter 17A that, if enforced against private farm  
1 39 property, would directly limit the use of private farm  
1 40 property.  
1 41 (2) Conditions, requirements, or limitations for  
1 42 licenses or permits issued or granted by a state  
1 43 agency which, if applied to private farm property,  
1 44 directly limits the use of the private farm property.  
1 45 (3) Required dedications or exactions from owners  
1 46 of private farm property by a state agency.  
1 47 b. "Governmental action" does not include any of  
1 48 the following:  
1 49 (1) Activities as to which the power of eminent  
1 50 domain is formally exercised.  
2 1 (2) The repeal or amendment of rules which results  
2 2 in the discontinuation of government programs or  
2 3 changes to rules which lessen the interference with  
2 4 the use of private farm property.  
2 5 (3) Law enforcement activities involving seizure  
2 6 or forfeiture of private farm property for violations  
2 7 of law or for use as evidence in criminal proceedings.

2 8 (4) Orders that are authorized by statute, are  
2 9 issued by a state agency or court, and result from the  
2 10 violation of a state law.

2 11 (5) A rule or regulation required to be adopted by  
2 12 the state pursuant to federal law.

2 13 (6) A rule, regulation, or requirement adopted by  
2 14 a municipality, as defined by section 670.1.

2 15 (7) A rule, regulation, or requirement adopted by  
2 16 a county including, but not limited to, county  
2 17 legislation as provided in section 331.302.

2 18 4. "Inverse condemnation" means an action to  
2 19 recover just compensation for a constitutional or  
2 20 regulatory taking of private farm property.

2 21 5. "Private farm property" means any real property  
2 22 suitable for use in a farm operation, including farm  
2 23 dwellings, improvements, and buildings or structures  
2 24 incidental to farm operations, in this state that is  
2 25 owned by a person other than the state, a political  
2 26 subdivision, or other governmental entity and if the  
2 27 property is protected pursuant to either the fifth or  
2 28 fourteenth amendment to the Constitution of the United  
2 29 States, or article I, section 18, of the Constitution  
2 30 of the State of Iowa.

2 31 6. "Regulatory taking" means government action  
2 32 that reduces the fair market value of the private farm  
2 33 property by more than fifty percent.

2 34 Sec. 3. NEW SECTION. 651A.3 JURISDICTION.

2 35 An action for inverse condemnation shall be brought  
2 36 in the county where the private farm property alleged  
2 37 to be subject to an inverse condemnation is located.  
2 38 The action shall be tried by ordinary proceedings.

2 39 Sec. 4. NEW SECTION. 651A.4 VERDICT &ndash; SPECIAL.

2 40 The verdict shall initially indicate whether the  
2 41 plaintiff is entitled to recover for an inverse  
2 42 condemnation of the plaintiff's private farm property.  
2 43 If the plaintiff is entitled to recover, the verdict  
2 44 shall then indicate the amount of the reduction in the  
2 45 fair market value of the plaintiff's private farm  
2 46 property due to the inverse condemnation and any  
2 47 economic losses sustained by the plaintiff due to the  
2 48 inverse condemnation from the time the government  
2 49 action is taken until suit was brought. The reduction  
2 50 in fair market value shall be shown by specifying the  
3 1 fair market value of the plaintiff's private farm  
3 2 property prior to or absent the constitutional or  
3 3 regulatory taking and by indicating the percentage  
3 4 reduction in value caused by the constitutional or  
3 5 regulatory taking.

3 6 Sec. 5. NEW SECTION. 651A.5 JUDGMENT.

3 7 1. If the special verdict indicates the plaintiff  
3 8 is not entitled to recover, the district court shall  
3 9 enter judgment for the defendant.

3 10 2. If the special verdict indicates the plaintiff  
3 11 is entitled to recover, the district court shall enter  
3 12 an order acknowledging the special verdict. Within  
3 13 forty-five days following the expiration of time for  
3 14 appeal or issuance of procedendo following appeal, the  
3 15 defendant shall file a notice of election with the  
3 16 district court indicating whether or not the defendant  
3 17 will agree to rescind the government action  
3 18 constituting the constitutional or regulatory taking.  
3 19 If the defendant elects to agree to rescind the  
3 20 government action, the district court shall enter  
3 21 judgment accordingly and award the plaintiff damages  
3 22 equal to the economic loss indicated in the special  
3 23 verdict. If the defendant does not elect to rescind  
3 24 the government action, the district court shall enter

3 25 a judgment for damages equal to the percentage  
3 26 reduction in the fair market value of the property.  
3 27 In a case where judgment for the full fair market  
3 28 value is entered and paid, the defendant shall obtain  
3 29 title to the property.

3 30 The district court shall order the payment of all  
3 31 costs and reasonable attorney fees to any party  
3 32 successfully establishing an inverse condemnation  
3 33 pursuant to this chapter.

3 34 Sec. 6. NEW SECTION. 651A.6 REMEDY NOT  
3 35 EXCLUSIVE.

3 36 This chapter does not prevent a party from seeking  
3 37 to recover just compensation for a constitutional  
3 38 taking in any other manner allowed by law.

3 39 Sec. 7. NEW SECTION. 651A.7 WAIVER OF RIGHTS  
3 40 VOID.

3 41 An agreement by a person having an ownership  
3 42 interest to waive or otherwise release the rights  
3 43 under this chapter as a condition of obtaining  
3 44 government action is void unless it is in settlement  
3 45 of a legal claim brought under the provisions of this  
3 46 chapter.

3 47 Sec. 8. NEW SECTION. 651A.8 APPLICABILITY.

3 48 This chapter applies only to government action  
3 49 adopted or enforced on or after July 1, 1995."

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4 3 COMMITTEE ON AGRICULTURE

4 4 EDDIE of Buena Vista, Chairperson

4 5 HF 166.702 76

4 6 da/sc