

Reprinted

MAR 4 1992

Place On Calendar

HOUSE FILE 2372
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(SUCCESSOR TO HSB 692)

Passed House, Date 3/24/92 (p. 772) Passed Senate, Date _____
Vote: Ayes 47 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act permitting a political subdivision to become a debtor
2 under chapter 9 of the federal Bankruptcy Code under certain
3 circumstances.

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

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1 Section 1. NEW SECTION. 76.16A DEBTOR STATUS PERMITTED -
2 - CIRCUMSTANCES.

3 A city, county, or other political subdivision of this
4 state may become a debtor under chapter 9 of the federal
5 Bankruptcy Code, 11 U.S.C. § 901 et seq., if it is rendered
6 insolvent, as defined in 11 U.S.C. § 101(32)(C), as a result
7 of a debt incurred involuntarily. A political subdivision
8 shall only become a debtor for the purpose of eliminating
9 interest on, and restructuring, the debt. A political
10 subdivision shall not become a debtor under the federal
11 Bankruptcy Code for the purpose of discharging the debt.

12 EXPLANATION

13 This bill provides that a city, county, or other political
14 subdivision may only become a debtor under chapter 9 of the
15 federal Bankruptcy Code for the purpose of eliminating the
16 interest on and restructuring a debt which was imposed
17 involuntarily upon the political subdivision. The bill does
18 not allow the political subdivision to discharge the debt
19 through bankruptcy.

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SENATE FILE 2372
FISCAL NOTE

REQ. BY SENATOR TAYLOR

A fiscal note for Senate File 2372 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2372 expands and adds certain requirements of employers of non-English speaking employees.

Assumptions:

1. The Department of Employment Services (DES) Labor Services Division will contract interpreters as needed and costs will be paid by employers.
2. The Labor Services Division will require \$51,240 and 1.50 FTE positions for administrative duties associated with this bill.

Fiscal Impact:

This bill will increase General Fund expenditures by \$51,240 for both FY 1993 and FY 1994.

Source: DES - Labor Services Division

(LSB 6326sv, MAS)

FILED APRIL 22, 1992

BY DENNIS PROUTY, FISCAL DIRECTOR

**HOUSE FILE 2372
FISCAL NOTE**

A fiscal note for House File 2372 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 2372 permits a city, county, or other political subdivision to become a debtor under Chapter 9 of the Federal Bankruptcy Code because of involuntarily incurred debt. The political debtor is permitted to become a debtor only to eliminate interest on debt and restructuring, but not discharge debt.

Assumptions:

1. Involuntarily debt refers to a debt taken on without approval of the governing body. It could include debt resulting from decision or imposition by a court judgement or as a result of fraud or illegal action resulting in loss. It would not include debt caused through bonding, contracting for services, or other such activities resulting from a direct decision by the governing body.
2. House File 2086 prohibited political subdivisions from filing for bankruptcy under Chapter 9 of the Federal Bankruptcy Code. It also provided that entities formed by a 28E agreement are considered municipalities for purposes of Chapter 9 of the Federal Bankruptcy Code. The bill made an exception for court-appointed receivers for an entity investing funds on behalf of a political subdivision, thus permitting the bankruptcy option for the receiver of the Iowa Trust Fund.
3. No State agencies had monies invested in the Iowa Trust Fund. The First and Third Community-Based Corrections District Departments (CBC) respectively had investments of \$542,082 (plus \$21,000 in interest) and \$250,000 (plus \$2,236 in interest). These investments were made using General Fund monies allocated to them. As of February 19, 1992, the First District has had \$79,271 returned, leaving \$483,811 outstanding. The Third District has had \$71,400 returned, leaving \$180,836 outstanding. No additional returns are expected until after the court ruling. Senate File 2064 provided a contingent appropriation of up to \$483,811 for the First District and up to \$180,836 for the Third District if losses are not recovered. Any recovered funds are to be used to repay the General Fund for the above amounts.
4. Monroe County had a \$20 million judgement against it in District Court. The lawsuit dealt with county zoning ordinances and the development of a landfill. The case has been appealed to the Iowa Supreme Court, and the final outcome has not been determined.

Fiscal Impact:

This bill does not affect the General Fund, except for those funds invested in the Iowa Trust Fund by the 2 Community Based Corrections District Departments. This bill is not expected to affect the amount or timing of tax collections or

HOUSE FILE 2372

H-5457

1 Amend House File 2372 as follows:

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

4 "Section 1. NEW SECTION. 668.16 MAXIMUM
5 LIABILITY FOR NONECONOMIC DAMAGES.

6 1. In a verdict issued pursuant to this chapter,
7 that portion of a verdict attributable to noneconomic
8 damages against any one defendant shall not exceed two
9 hundred fifty thousand dollars, except as otherwise
10 provided pursuant to subsection 4.

11 2. In an action pursuant to this chapter and tried
12 to a jury, and in which noneconomic damages are sought
13 or argued, the court shall, unless otherwise agreed to
14 by all parties, instruct the jury that the portion of
15 a verdict attributable to noneconomic damages against
16 any one defendant shall not exceed two hundred fifty
17 thousand dollars.

18 3. In an action brought pursuant to this chapter
19 and tried to a jury, and in which noneconomic damages
20 are sought or argued, the court shall, unless
21 otherwise agreed to by all parties, require that the
22 jury return a verdict itemizing the injuries and
23 damages awarded pursuant to the verdict.

24 4. In an action brought pursuant to this chapter
25 and in which noneconomic damages are awarded in the
26 maximum amount allowed pursuant to subsection 1, the
27 claimant may petition the court which heard the
28 original action for a waiver of the maximum limitation
29 and for a granting of an increase in that portion of
30 the original verdict attributable to noneconomic
31 damages. A waiver of the maximum limitation and
32 subsequent increase in that portion of the original
33 verdict attributable to noneconomic damages is subject
34 to the following requirements:

35 a. A hearing shall first be granted at which all
36 parties may appear and present evidence and argument
37 relating to a waiver of the maximum limitation and
38 subsequent increase in the original verdict.

39 b. A waiver of the maximum limitation and
40 subsequent increase in the original verdict shall only
41 be made upon a determination that the portion of the
42 original verdict attributable to noneconomic damages
43 is clearly insufficient based upon the evidence
44 presented to the court in the original action and that
45 the failure to waive the maximum limitation would
46 result in significant hardship for the claimant.

47 c. An increase in that portion of the original
48 verdict attributable to noneconomic damages must be
49 consistent with the percentages of fault and evidence
50 as to total damages determined in the original

H-5457

H-5457

Page 2

1 action."

2 2. Title page, by striking lines 1 through 3 and
3 inserting the following: "An Act relating to certain
4 tort actions by limiting the maximum liability for
5 noneconomic damages."

By BENNETT of Ida

H-5457 FILED MARCH 23, 1992

w/cl 3/24 (p. 771)

HOUSE FILE 2372

H-5463

1 Amend House File 2372 as follows:

2 1. By striking lines 3 through 11 and inserting
3 the following:

4 "A city, county, or other political subdivision may
5 become a debtor under chapter 9 of the federal
6 Bankruptcy Code, 11 U.S.C. § 901 et seq., if it is
7 rendered insolvent, as defined in 11 U.S.C. §
8 101(32)(c), as a result of a debt involuntarily
9 incurred. As used herein, "debt" means an obligation
10 to pay money, other than pursuant to a valid and
11 binding collective bargaining agreement or previously
12 authorized bond issue, as to which the governing body
13 of the city, county, or other political subdivision
14 has made a specific finding set forth in a duly
15 adopted resolution of each of the following:

16 1. That all or a portion of such obligation will
17 not be paid from available insurance proceeds and must
18 be paid from an increase in general tax levy.

19 2. That such increase in the general tax levy will
20 result in a severe, adverse impact on the ability of
21 the city, county, or political subdivision to exercise
22 the powers granted to it under applicable law,
23 including without limitation providing necessary
24 services and promoting economic development.

25 3. That as a result of such obligation, the city,
26 county, or other political subdivision is unable to
27 pay its debts as they become due."

By JAY of Appanoose

HALVORSON of Clayton

H-5463 FILED MARCH 23, 1992

(Adopted 3/24 (p. 772))

Sen Jud. 3/24, No Pass 3/24

HOUSE FILE 2372
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(SUCCESSOR TO HSB 692)

(As Amended and Passed by the House March 24, 1992)

Re Passed House, Date 4/21/92 (p.1680) Passed Senate, Date 4/2/92 (p.1179)

Vote: Ayes 98 Nays 2 Vote: Ayes 37 Nays 12

Approved April 29, 1992

Motion to Reconsider (p.1189)
" " " *lost (p.1475)*

A BILL FOR

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2 under chapter 9 of the federal Bankruptcy Code under certain
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House Amendments _____

1 Section 1. NEW SECTION. 76.16A DEBTOR STATUS PERMITTED -
2 - CIRCUMSTANCES.

3 A city, county, or other political subdivision may become a
4 debtor under chapter 9 of the federal Bankruptcy Code, 11
5 U.S.C. § 901 et seq., if it is rendered insolvent, as defined
6 in 11 U.S.C. § 101(32)(c), as a result of a debt involuntarily
7 incurred. As used herein, "debt" means an obligation to pay
8 money, other than pursuant to a valid and binding collective
9 bargaining agreement or previously authorized bond issue, as
10 to which the governing body of the city, county, or other
11 political subdivision has made a specific finding set forth in
12 a duly adopted resolution of each of the following:

13 1. That all or a portion of such obligation will not be
14 paid from available insurance proceeds and must be paid from
15 an increase in general tax levy.

16 2. That such increase in the general tax levy will result
17 in a severe, adverse impact on the ability of the city,
18 county, or political subdivision to exercise the powers
19 granted to it under applicable law, including without
20 limitation providing necessary services and promoting economic
21 development.

22 3. That as a result of such obligation, the city, county,
23 or other political subdivision is unable to pay its debts as
24 they become due.

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HOUSE FILE 2372

S-5496

1 Amend House File 2372, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by striking lines 1 through 24 and
4 inserting the following:

5 "Section 1. NEW SECTION. 76.16A RESTRUCTURING OF
6 DEBT AUTHORIZED.

7 1. A city, county, or other political subdivision
8 which incurs a judgment debt may petition the district
9 court for a determination of the appropriate payment
10 method for the judgment debt and may appeal the order
11 setting forth the payment method. The court shall
12 order that the payment method for all or part of the
13 judgment debt be by structured, periodic, or other
14 nonlump-sum payments as justice requires.

15 2. As used in this section, "judgment debt" means
16 an obligation to pay money, other than pursuant to a
17 valid and binding collective bargaining agreement or
18 previously authorized bond issue, incurred as a result
19 of a civil judgment against the city, county, or other
20 political subdivision, as to which the governing body
21 of the city, county, or other political subdivision
22 has made a specific finding set forth in a duly
23 adopted resolution of each of the following:

24 a. That all or a portion of the judgment debt will
25 not be paid from available insurance proceeds and must
26 be paid from an increase in general tax levy.

27 b. That the increase in the general tax levy will
28 result in a severe, adverse impact on the ability of
29 the city, county, or political subdivision to exercise
30 the powers granted to it under applicable law,
31 including without limitation providing necessary
32 services and promoting economic development.

33 c. That as a result of the judgment debt, the
34 city, county, or other political subdivision is unable
35 to pay its debts as the debt becomes due.

36 3. For the purposes of this section, interest
37 shall not accrue on a judgment debt restructured under
38 this section."

39 2. Page 1, by inserting before line 25 the
40 following:

41 "Either party may petition the court for a change
42 of venue to another county and the court shall grant a
43 change of venue whenever it appears that sufficient
44 grounds exist for granting a change of venue."

45 3. Title page, by striking lines 1 and 2, and
46 inserting the following: "An Act permitting a
47 political subdivision to restructure a judgment debt
48 under certain".

By LINN FUHRMAN

S-5496 FILED APRIL 1, 1992

Act 4/2 (p. 1178)

HOUSE FILE 2372

S-5437

1 Amend House File 2372, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, by inserting after line 24 the
4 following:
5 "4. That the debt is not an obligation to pay
6 money to a city, county, entity organized pursuant to
7 chapter 28E, or other political subdivision."

By JOHN A. PETERSON

S-5437 FILED MARCH 30, 1992

Adopted 4/2 (p.1178)

SENATE AMENDMENT TO HOUSE FILE 2372

H-5964

1 Amend House File 2372, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, by inserting after line 24 the
4 following:
5 "4. That the debt is not an obligation to pay
6 money to a city, county, entity organized pursuant to
7 chapter 28E, or other political subdivision."

RECEIVED FROM THE SENATE

H-5964 FILED APRIL 17, 1992

Adopted 4/2 (p.1679)

Jay Chair
Halvoeson
Hibbard

HSB 692

New Judiciary & Law Enforcement
HOUSE FILE 2372
BY (PROPOSED COMMITTEE ON
JUDICIARY AND LAW ENFORCE-
MENT BILL BY CHAIRPERSON JAY)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act permitting a political subdivision to become a debtor
2 under chapter 9 of the federal Bankruptcy Code under certain
3 circumstances.

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3 A city, county, or other political subdivision of this
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6 insolvent, as defined in 11 U.S.C. § 101(32)(C), as a result
7 of a debt incurred involuntarily. A political subdivision
8 shall only become a debtor for the purpose of eliminating
9 interest on, and restructuring, the debt. A political
10 subdivision shall not become a debtor under the federal
11 Bankruptcy Code for the purpose of discharging the debt.

12 EXPLANATION

13 This bill provides that a city, county, or other political
14 subdivision may only become a debtor under chapter 9 of the
15 federal Bankruptcy Code for the purpose of eliminating the
16 interest on and restructuring a debt which was imposed
17 involuntarily upon the political subdivision. The bill does
18 not allow the political subdivision to discharge the debt
19 through bankruptcy.

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HOUSE FILE 2372

AN ACT

PERMITTING A POLITICAL SUBDIVISION TO BECOME A DEBTOR UNDER
CHAPTER 9 OF THE FEDERAL BANKRUPTCY CODE UNDER CERTAIN
CIRCUMSTANCES.

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

Section 1. NEW SECTION. 76.16A DEBTOR STATUS PERMITTED -
- CIRCUMSTANCES.

A city, county, or other political subdivision may become a debtor under chapter 9 of the federal Bankruptcy Code, 11 U.S.C. § 901 et seq., if it is rendered insolvent, as defined in 11 U.S.C. § 101(32)(c), as a result of a debt involuntarily incurred. As used herein, "debt" means an obligation to pay money, other than pursuant to a valid and binding collective bargaining agreement or previously authorized bond issue, as to which the governing body of the city, county, or other political subdivision has made a specific finding set forth in a duly adopted resolution of each of the following:

1. That all or a portion of such obligation will not be paid from available insurance proceeds and must be paid from an increase in general tax levy.
2. That such increase in the general tax levy will result in a severe, adverse impact on the ability of the city, county, or political subdivision to exercise the powers granted to it under applicable law, including without limitation providing necessary services and promoting economic development.
3. That as a result of such obligation, the city, county, or other political subdivision is unable to pay its debts as they become due.


4. That the debt is not an obligation to pay money to a city, county, entity organized pursuant to chapter 28E, or other political subdivision.

ROBERT C. ARNOULD
Speaker of the House

MICHAEL E. GRONSTAL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2372, Seventy-fourth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved  , 1992

TERRY E. BRANSTAD
Governor