

2/8/96 Judiciary

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SENATE FILE 2146
BY McLAREN

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

A BILL FOR

1 An Act relating to inverse condemnation of private farm property
2 by state government action and providing an applicability
3 date.

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

S.F. 2146

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1 Section 1. NEW SECTION. 651A.1 WHO MAY BRING ACTION.

2 An action to recover just compensation for an inverse
3 condemnation of private farm property may be brought by any
4 person having an ownership interest in the private farm
5 property.

6 Sec. 2. NEW SECTION. 651A.2 DEFINITIONS.

7 As used in this chapter, unless the context otherwise
8 requires:

9 1. "Constitutional taking" means that due to a government
10 action, private farm property is taken in such a manner that
11 compensation to the owner is required by either the fifth or
12 fourteenth amendment to the Constitution of the United States,
13 or article I, section 18, of the Constitution of the State of
14 Iowa.

15 2. "Farm operation" means a condition or activity which
16 occurs on a farm in connection with the production of
17 agricultural commodities, including, but not limited to, the
18 raising, harvesting, drying, or storage of crops; the
19 maintenance of pasture or grassland; the care or feeding of
20 livestock including poultry; the handling or transportation of
21 crops or livestock including poultry; the production of eggs
22 or milk; the production of fruit or other horticultural crops;
23 the treatment or disposal of wastes resulting from livestock;
24 the creation of noise, odor, dust, or fumes; the operation of
25 machinery and irrigation pumps; ground and aerial seeding and
26 spraying; the application of pesticides as defined in section
27 206.2; and the employment and use of labor.

28 3. a. "Government action" means any of the following:

29 (1) Rules of a state agency adopted pursuant to chapter
30 17A that, if enforced against private farm property, would
31 directly limit the use of private farm property.

32 (2) Conditions, requirements, or limitations for licenses
33 or permits issued or granted by a state agency which, if
34 applied to private farm property, directly limits the use of
35 the private farm property.

1 (3) Required dedications or exactions from owners of
2 private farm property by a state agency.

3 b. "Government action" does not include any of the
4 following:

5 (1) Activities as to which the power of eminent domain is
6 formally exercised.

7 (2) The repeal or amendment of rules which results in the
8 discontinuation of government programs or changes to rules
9 which lessen the interference with the use of private farm
10 property.

11 (3) Law enforcement activities involving seizure or
12 forfeiture of private farm property for violations of law or
13 for use as evidence in criminal proceedings.

14 (4) Orders that are authorized by statute, are issued by a
15 state agency or court, and result from the violation of a
16 state law.

17 (5) A rule or regulation required to be adopted by the
18 state pursuant to federal law.

19 (6) A rule, regulation, or requirement adopted by a
20 municipality, as defined by section 670.1.

21 (7) A rule, regulation, or requirement adopted by a county
22 including, but not limited to, county legislation as provided
23 in section 331.302.

24 (8) The sale of private farm property subject to a lien
25 held by a governmental entity.

26 (9) An action involving private parties which is conducted
27 under state law, or enforced by an officer of a governmental
28 entity, including but not limited to, a proceeding to enforce
29 a debt against private farm property under chapter 624, to
30 forfeit a contract to purchase private farm property under
31 chapter 656, or to otherwise levy on, execute on, seize, or
32 attach private farm property.

33 (10) An easement granted pursuant to section 308.4.

34 (11) The reduction or elimination of a benefit directly or
35 indirectly conferred upon an owner which is not related to the

1 use of the private farm property and resulting from a
2 government action, including but not limited to, the removal
3 of a facility or infrastructure.

4 (12) An action which constitutes the exercise of the
5 state's police power to prevent a demonstrable harm to the
6 public health and safety, including any use of private farm
7 property that is structurally unsafe; that constitutes a fire
8 hazard; that constitutes a hazard to the public health or
9 safety because of inadequate maintenance, dilapidation, or
10 abandonment; or that is otherwise dangerous to human life.

11 4. "Inverse condemnation" means an action to recover just
12 compensation for a constitutional or regulatory taking of
13 private farm property.

14 5. "Private farm property" means any real property
15 suitable for use in a farm operation, including farm
16 dwellings, improvements, and buildings or structures
17 incidental to farm operations, in this state that is owned by
18 a person other than the state, a political subdivision, or
19 other governmental entity and if the property is protected
20 pursuant to either the fifth or fourteenth amendment to the
21 Constitution of the United States, or article I, section 18,
22 of the Constitution of the State of Iowa.

23 6. "Regulatory taking" means government action that
24 reduces the fair market value of the private farm property by
25 more than seventy-five percent.

26 Sec. 3. NEW SECTION. 651A.3 JURISDICTION.

27 An action for inverse condemnation may be brought in the
28 district court sitting in the county where the private farm
29 property alleged to be subject to an inverse condemnation is
30 located. The action shall be tried by ordinary proceedings.

31 Sec. 4. NEW SECTION. 651A.4 VERDICT -- SPECIAL.

32 The verdict shall initially indicate whether the plaintiff
33 is entitled to recover for an inverse condemnation of the
34 plaintiff's private farm property. If the plaintiff is
35 entitled to recover, the verdict shall then indicate the

1 amount of the reduction in the fair market value of the
2 plaintiff's private farm property due to the inverse
3 condemnation and any economic losses sustained by the
4 plaintiff due to the inverse condemnation from the time the
5 government action is taken until suit was brought. The
6 reduction in fair market value shall be shown by specifying
7 the fair market value of the plaintiff's private farm property
8 prior to or absent the constitutional or regulatory taking and
9 by indicating the percentage reduction in value caused by the
10 constitutional or regulatory taking.

11 Sec. 5. NEW SECTION. 651A.5 JUDGMENT.

12 1. If the special verdict indicates the plaintiff is not
13 entitled to recover, the district court shall enter judgment
14 for the defendant.

15 2. If the special verdict indicates the plaintiff is
16 entitled to recover, the district court shall enter an order
17 acknowledging the special verdict. Within sixty days
18 following the expiration of time for appeal or issuance of
19 procedendo following appeal, the defendant shall file a notice
20 of election with the district court indicating whether or not
21 the defendant will agree to rescind the government action
22 constituting the constitutional or regulatory taking. If the
23 defendant elects to agree to rescind the government action,
24 the district court shall enter judgment accordingly. However,
25 if the defendant rescinds the government action, the damages
26 shall be limited only to the actual and demonstrable economic
27 losses incurred by the plaintiff as a result of the government
28 action during the period when the government action was in
29 effect. If the defendant does not elect to rescind the
30 government action, the district court shall enter a judgment
31 for damages equal to the percentage reduction in the fair
32 market value of the property. In a case where judgment for
33 the full fair market value is entered and paid, the defendant
34 shall obtain title to the property.

35 The district court shall order the defendant or defendants

1 to pay all court costs and reasonable attorney fees to any
2 party successfully establishing an inverse condemnation
3 pursuant to this chapter.

4 Sec. 6. NEW SECTION. 651A.6 REMEDY NOT EXCLUSIVE.

5 This chapter does not prevent a party from seeking to
6 recover just compensation for a constitutional taking in any
7 other manner allowed by law.

8 Sec. 7. NEW SECTION. 651A.7 APPLICABILITY.

9 This chapter applies only to government action adopted or
10 enforced on or after July 1, 1996.

11 EXPLANATION

12 This bill establishes a statutory procedure for a person to
13 obtain just compensation for an inverse condemnation of real
14 property which is classified as private farm property. The
15 bill defines inverse condemnation as state government action
16 that constitutes a taking under the United States or Iowa
17 constitutions or a regulatory taking that results in a
18 reduction in the fair market value of the property affected by
19 more than 75 percent. Specifically, government action is
20 defined to include rules of a state agency that, if enforced
21 against private farm property, would directly limit the use of
22 private farm property; conditions, requirements, or
23 limitations for licenses or permits issued or granted by a
24 state agency which, if applied to private farm property,
25 directly limits the use of the private farm property; or
26 required dedications or exactions from owners of private farm
27 property by a state agency. The bill lists a number of
28 specific items which are not considered government action for
29 purposes of the bill.

30 The bill provides procedures for bringing an action for
31 inverse condemnation. The action must be brought in the
32 district court of the county where the affected real property
33 is located. The bill also provides that following trial, a
34 special verdict must be entered indicating whether inverse
35 condemnation occurred and the loss in value of the owner's

1 property, and the economic loss suffered by the owner. If the
2 special verdict indicates the owner is entitled to recover,
3 the district court must enter an order acknowledging the
4 special verdict. The government has an election to rescind
5 the government action. If the government elects to rescind
6 the government action, the owner is entitled to damages for
7 the economic loss caused by that action. If the government
8 does not elect to rescind the government action, the owner is
9 entitled to receive damages equal to the reduction in the fair
10 market value of the private farm property.

11 The bill applies to government action adopted or enforced
12 on or after July 1, 1996.

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