

Senate Study Bill 16

Conference Committee Text

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1 1 Section 1. NEW SECTION. 651A.1 WHO MAY BRING ACTION.
1 2 An action to recover just compensation for an inverse
1 3 condemnation of private property may be brought by any person
1 4 having or claiming an interest in the property affected.
1 5 Sec. 2. NEW SECTION. 651A.2 DEFINITIONS.
1 6 As used in this chapter, unless the context otherwise
1 7 requires:
1 8 1. "Constitutional taking" or "taking" means that due to a
1 9 governmental action, private property is taken in such a
1 10 manner that compensation to the owner is required by either
1 11 the fifth or fourteenth amendment to the Constitution of the
1 12 United States, or article I, section 18, of the Constitution
1 13 of the State of Iowa.
1 14 2. a. "Governmental action" means any of the following:
1 15 (1) Rules of a state agency adopted pursuant to chapter
1 16 17A that, if enforced, limit the use of private property.
1 17 (2) Proposed or implemented conditions, requirements, or
1 18 limitations for licenses or permits issued or granted by a
1 19 state agency which affect the use of private property.
1 20 (3) Required dedications or exactions from owners of
1 21 private property by a state agency.
1 22 b. "Governmental action" does not include any of the
1 23 following:
1 24 (1) Activities as to which the power of eminent domain is
1 25 formally exercised.
1 26 (2) The repeal or amendment of rules which results in the
1 27 discontinuation of government programs or changes to rules
1 28 which lessen the interference with the use of private
1 29 property.
1 30 (3) Law enforcement activities involving seizure or
1 31 forfeiture of private property for violations of law or for
1 32 use as evidence in criminal proceedings.
1 33 (4) Orders that are authorized by statute, are issued by a
1 34 state agency or court, and result from the violation of a
1 35 state law.
2 1 (5) A rule or regulation required to be adopted by the
2 2 state pursuant to federal law.
2 3 (6) A rule, regulation, or requirement adopted by a
2 4 municipality, as defined by section 670.1.
2 5 (7) A rule, regulation, or requirement adopted by a county
2 6 including, but not limited to, county legislation as provided
2 7 in section 331.302.
2 8 (8) An easement granted for a public purpose, including
2 9 but not limited to, a utility or public highway, or scenic
2 10 easement as provided in section 308.4, regardless of whether
2 11 compensation was paid for the easement.
2 12 (9) The reduction or elimination of a benefit directly or
2 13 indirectly conferred upon a person not relating to the use of
2 14 property and resulting from a governmental action.
2 15 3. "Inverse condemnation" means an action to recover just
2 16 compensation for a constitutional or regulatory taking of
2 17 private property.
2 18 4. "Private property" means any real property in this
2 19 state that is owned by a person other than the state, a
2 20 political subdivision, or other governmental entity and if the
2 21 property is protected pursuant to either the fifth or

2 22 fourteenth amendment to the Constitution of the United States,
2 23 or article I, section 18, of the Constitution of the State of
2 24 Iowa.

2 25 5. "Regulatory taking" means government action that
2 26 reduces the fair market value of the property affected by the
2 27 government action by more than fifty percent.

2 28 Sec. 3. NEW SECTION. 651A.3 JURISDICTION.

2 29 An action for inverse condemnation shall be brought in the
2 30 county where the private property alleged to be affected by
2 31 government action is located. The action shall be tried by
2 32 ordinary proceedings.

2 33 Sec. 4. NEW SECTION. 651A.4 VERDICT – SPECIAL.

2 34 The verdict shall initially indicate whether the plaintiff
2 35 is entitled to recover for an inverse condemnation of the
3 1 plaintiff's property. If the plaintiff is entitled to
3 2 recover, the verdict shall then indicate the amount of the
3 3 reduction in the fair market value of the plaintiff's property
3 4 due to the inverse condemnation and any economic losses
3 5 sustained by the plaintiff due to the inverse condemnation
3 6 from the time the government action is taken until suit was
3 7 brought.

3 8 Sec. 5. NEW SECTION. 651A.5 JUDGMENT.

3 9 1. If the special verdict indicates the plaintiff is not
3 10 entitled to recover, the district court shall enter judgment
3 11 for the defendant.

3 12 2. If the special verdict indicates the plaintiff is
3 13 entitled to recover, the district court shall enter an order
3 14 acknowledging the special verdict. Within five days following
3 15 the entering of the order, the defendant shall file a notice
3 16 of election with the district court indicating whether or not
3 17 the defendant will agree to rescind the government action
3 18 constituting the constitutional or regulatory taking. If the
3 19 defendant elects to agree to rescind the government action,
3 20 the district court shall enter judgment accordingly and award
3 21 the plaintiff damages equal to the economic loss indicated in
3 22 the special verdict. If the defendant does not elect to
3 23 rescind the government action, the district court shall enter
3 24 a judgment for damages equal to the reduction in the fair
3 25 market value of the property.

3 26 The district court shall order the payment of all costs and
3 27 reasonable attorney fees to any party successfully
3 28 establishing an inverse condemnation pursuant to this chapter.

3 29 Sec. 6. NEW SECTION. 651A.6 REMEDY NOT EXCLUSIVE.

3 30 This chapter does not prevent a party from seeking to
3 31 recover just compensation for a constitutional taking in any
3 32 other manner allowed by law.

3 33 Sec. 7. NEW SECTION. 651A.7 WAIVER OF RIGHTS VOID.

3 34 An agreement by an individual to waive or otherwise release
3 35 the individual's rights to benefits or any other rights under
4 1 this chapter is void.

4 2 Sec. 8. NEW SECTION. 651A.8 APPLICABILITY.

4 3 This chapter applies only to government action adopted or
4 4 enforced on or after July 1, 1995.

4 5 EXPLANATION

4 6 This bill establishes a statutory procedure for a person to
4 7 obtain just compensation for an inverse condemnation of real
4 8 property. The bill defines inverse condemnation as state
4 9 government action that constitutes a taking under the United
4 10 States or Iowa Constitutions or a taking that results in a
4 11 reduction in the fair market value of the property affected by
4 12 more than 50 percent. Government action is also defined to
4 13 include regulatory actions by the state.

4 14 The bill provides that an action for inverse condemnation
4 15 under this chapter is by ordinary proceedings and shall be
4 16 brought in the district court of the county where the affected
4 17 real property is located. The bill also provides that
4 18 following trial, a special verdict will be entered indicating

4 19 whether inverse condemnation occurred, the loss in value of
4 20 the plaintiff's property, and the economic loss suffered by
4 21 the plaintiff due to the action. The state, if the verdict is
4 22 adverse, then has five days to elect whether or not to agree
4 23 to rescind the offending government action. If the defendant
4 24 agrees to rescind, judgment is entered accordingly and
4 25 plaintiff is awarded only the economic loss. If the defendant
4 26 does not agree to rescind the government action, judgment is
4 27 entered for the loss in the fair market value of the property.
4 28 The bill further provides that the remedies under this
4 29 chapter are not exclusive or waivable for a person aggrieved
4 30 by an alleged taking and that the bill only applies to
4 31 government action adopted or enforced on or after July 1,
4 32 1995.
4 33 LSB 1568SC 76
4 34 da/jw/5.1