

FEB 12 1998
LOCAL GOVERNMENT

HOUSE FILE 2241
BY FALLON

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

A BILL FOR

1 An Act providing for farmland preservation by authorizing
2 counties to acquire certain easements and providing an
3 effective date.

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

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HT 2241

1 Section 1. Section 352.2, Code 1997, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 5A. "Farmland preservation easement"
4 means an easement in, servitude upon, restriction upon the use
5 of, or other interest in real estate which is acquired by a
6 county from the owner of farmland, if the easement is created
7 for the purpose of preserving farmland for use in farm
8 operations, as provided in section 352.14.

9 Sec. 2. NEW SECTION. 352.14 FARMLAND PRESERVATION
10 EASEMENT.

11 1. A county may adopt an ordinance as provided in section
12 331.302, which provides for the acquisition of farmland
13 preservation easements for the purpose of preserving farmland
14 for use in farm operations in the county.

15 2. A county may acquire the farmland preservation easement
16 by gift, purchase, or exchange. The county shall not acquire
17 a farmland preservation easement through condemnation
18 proceedings. The county may only transfer the farmland
19 preservation easement to another public body or nonprofit
20 organization in order to carry out the purpose of this
21 section.

22 3. A farmland preservation easement shall allow farmland
23 to remain in private ownership for use in a farm operation,
24 and at the same time, restrict and control the future uses of
25 the farmland which may be incompatible with farm operations,
26 according to terms and conditions agreed to by the county and
27 the owner of the farmland subject to the easement, including
28 but not limited to restricting, controlling, or prohibiting
29 the subdivision of the farmland for industrial, commercial, or
30 residential use. The farmland preservation easement shall not
31 restrict any use permitted in an agricultural area as provided
32 in section 352.6.

33 4. A farmland preservation easement shall be perpetual
34 unless expressly limited to a lesser term as negotiated by the
35 county and the owner of the farmland, or unless released by

1 the county or the holder of the easement upon approval by the
2 county. The ordinance may provide for the termination of the
3 farmland preservation easement, including the repurchase of
4 the farmland preservation easement.

5 5. The farmland preservation easement shall become
6 effective and the farmland subject to the easement shall
7 become a servient estate when an acknowledgment of the
8 easement signed by an official designated by the county and
9 the owner of the farmland is recorded and indexed in the
10 office of the county recorder in the county where the farmland
11 is located.

12 6. The acquisition of a farmland preservation easement
13 shall not grant the public a right of access or right of use
14 on the farmland which is subject to the easement. The
15 acquisition of a farmland preservation easement does not
16 restrict any agency of the state or a political subdivision
17 from acquiring land by condemnation for a public use unrelated
18 to farmland preservation, as provided in chapter 6A. If such
19 farmland is condemned, the owner of the farmland shall be paid
20 the full amount to which the owner would be entitled if the
21 land was not subject to the farmland preservation easement
22 less any amount paid by the county for the farmland
23 preservation easement.

24 Sec. 3. EFFECTIVE DATE. This Act, being deemed of
25 immediate importance, takes effect upon enactment.

26 EXPLANATION

27 This bill amends Code chapter 352 which provides for county
28 land preservation initiatives. The bill authorizes a county
29 to adopt an ordinance which provides for the acquisition of
30 farmland preservation easements for the purpose of preserving
31 farmland for use in farm operations in the county. According
32 to the bill, a farmland preservation easement allows farmland
33 to remain in private ownership for use in a farm operation,
34 and at the same time, restricts and controls the future uses
35 of the farmland which are incompatible with farm operations,

1 according to terms and conditions agreed to by the county and
2 the titleholder of the land. The bill provides that an
3 easement cannot restrict any use otherwise permitted in an
4 agricultural area. The easement is perpetual unless expressly
5 limited to a lesser term as negotiated by the parties. The
6 bill provides that the ordinance may provide for the
7 termination of the easement, including by repurchase. The
8 bill requires that an acknowledgment of the easement be
9 recorded and indexed in the office of the county recorder.
10 The bill provides that the acquisition of an easement does not
11 grant the public a right of access or right of use on the
12 farmland, and does not restrict a government unit from
13 acquiring the land by condemnation for a public use unrelated
14 to farmland preservation.

15 The bill becomes effective upon enactment.

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