

3-13-97 Amend/Do Pass w/H. 1166
4-7-97 Referred Local Gov.

FEB 24 1997
LOCAL GOVERNMENT

HOUSE FILE 332
BY KREMER

(COMPANION TO 1939SS BY REHBERG)

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

A BILL FOR

- 1 An Act concerning the condemnation of private property by owners
- 2 of land without a public way to the land.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 332

H-1166

- 1 Amend House File 332 as follows:
- 2 1. Page 1, line 5, by inserting after the word
- 3 "way," the following: "of a reasonable width".
- 4 2. Page 1, line 6, by striking the words "less
- 5 than" and inserting the following: "to exceed".
- 6 3. Page 1, by striking lines 8 and 9 and
- 7 inserting the following: "be located on a division,
- 8 subdivision or "forty" line, or immediately adjacent
- 9 thereto, and along the line which is the".
- 10 4. Page 1, by striking lines 27 through 29 and
- 11 inserting the following:
- 12 "A public way condemned under this subsection shall
- 13 not be considered an existing public road in
- 14 subsequent condemnations to provide a public way for
- 15 access to an existing public road."
- 16 5. Page 2, line 4, by inserting after the figure
- 17 "679A." the following: "On appeal, the condemner
- 18 shall establish that the interest of the condemner in
- 19 establishing the public way is greater than the
- 20 interest of the present owner or lessee of the
- 21 condemned land."

By COMMITTEE ON LOCAL GOVERNMENT
VANDE HOEF of Osceola, Chairperson

H-1166 FILED MARCH 13, 1997

1 Section 1. Section 6A.4, subsection 2, Code 1997, is
2 amended to read as follows:

3 2. Owners of land without a way to the land. Upon the
4 owner or lessee of lands, which have no public or private way
5 to the lands, for the purpose of providing a public way, not
6 ~~exceeding~~ less than forty feet in width, which will connect
7 with an existing public road. The condemned public way shall
8 be located ~~on-a-division,-subdivision-or-"forty"-line,-or~~
9 ~~immediately-adjacent-thereto,-and~~ along the line which is the
10 nearest feasible route to an existing public road, or along a
11 route established for a period of ten years or more by an
12 easement of record or by use and travel to and from the
13 property by the owner and the general public. The public way
14 shall not interfere with buildings, orchards, or cemeteries.
15 When passing through enclosed lands, the public way shall be
16 fenced ~~on-both-sides-by-the-condemner-upon-request-of-the~~
17 ~~owner-of-the-condemned-land~~ only at the request of the
18 adjacent owner or lessee, with the costs of erection and
19 maintenance of the fence being borne by the condemner, or the
20 condemner's assignee. All fences erected pursuant to this
21 subsection shall comply with the provisions of chapter 359A.
22 The condemner or the condemner's assignee, shall provide
23 easement for access to the owner of property severed by the
24 condemnation. The public way shall be maintained by the
25 condemner or the condemner's assignee, and shall not be
26 considered any part of the primary or secondary road systems.
27 ~~A-public-way-condemned-under-this-subsection-shall-not-be~~
28 ~~considered-an-existing-public-road-in-subsequent-condemnations~~
29 ~~to-provide-a-public-way-for-access-to-an-existing-public-road.~~
30 The condemnation of a public way under this subsection
31 shall be conducted in compliance with sections 6B.3 through
32 6B.19, 6B.33, 306.50 through 306.54, 314.23, and 314.24, and
33 the condemner shall pay the costs of compliance.
34 The appeal of condemnation proceedings under this
35 subsection shall be conducted in compliance with sections

1 historical protection concerning roads. The bill also
2 specifies the provisions of Code chapter 6B that apply to an
3 appeal of a condemnation proceeding but provides that the
4 parties may, by mutual agreement, consent to arbitration.

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