

3/19/98 Moved to Unfinished Business Calendar

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SENATE FILE 2389
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO SF 2042)

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

A BILL FOR

1 An Act relating to condemnation of agricultural land for economic
2 development purposes, providing for the Act's applicability,
3 and providing an effective date.

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

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S.F. 2389

1 Section 1. NEW SECTION. 6A.21 CONDEMNATION OF
2 AGRICULTURAL LAND.

3 The application of this section to prohibit the
4 condemnation of agricultural land without the consent of the
5 owner is intended to prevent the unnecessary condemnation of
6 agricultural land and to protect land used for an agricultural
7 purpose but is not intended to prevent the development of land
8 in highly commercial or industrial areas within a city.

9 For purposes of this chapter, a public use or public
10 purpose does not include the condemnation of agricultural land
11 for economic development purposes unless the owner of the
12 agricultural land consents to the condemnation. "Agricultural
13 land" means real property that is used for the production of
14 agricultural commodities including, but not limited to, the
15 raising, harvesting, handling, drying, or storage of crops
16 used for feed, food, seed, or fiber; the care or feeding of
17 livestock; the handling or transportation of crops or
18 livestock; the storage, treatment, or disposal of livestock
19 manure; and the application of fertilizers, soil conditioners,
20 pesticides, and herbicides on crops. "Economic development
21 purposes" means the construction of, or public improvement
22 related to, recreational development, housing and residential
23 development, or commercial or industrial enterprise
24 development. This section does not apply to a slum area or
25 blighted area as defined in section 403.17, or to the
26 establishment, relocation, or improvement of a road pursuant
27 to chapter 306, or of an airport as defined in section 328.1.

28 Sec. 2. Section 403.5, subsection 4, Code 1997, is amended
29 by adding the following new unnumbered paragraph:

30 NEW UNNUMBERED PARAGRAPH. A municipality shall not condemn
31 agricultural land included within an economic development area
32 unless the owner of the agricultural land consents to
33 condemnation.

34 Sec. 3. Section 403.7, Code 1997, is amended to read as
35 follows:

1 403.7 CONDEMNATION OF PROPERTY.

2 A municipality shall have the right to acquire by
3 condemnation any interest in real property, including a fee
4 simple title thereto, which it may deem necessary for or in
5 connection with an urban renewal project under this chapter.
6 However, a municipality shall not condemn agricultural land
7 included within an economic development area unless the owner
8 of the agricultural land consents to condemnation. A
9 municipality may exercise the power of eminent domain in the
10 manner provided in chapter 6B, and Acts amendatory to that
11 chapter or supplementary to that chapter, or it may exercise
12 the power of eminent domain in the manner now or which may be
13 hereafter provided by any other statutory provisions for the
14 exercise of the power of eminent domain. Property already
15 devoted to a public use may be acquired in like manner.
16 However, real property belonging to the state, or any
17 political subdivision of this state, shall not be acquired
18 without its consent, and real property or any right or
19 interest in the property owned by any public utility company,
20 pipeline company, railway or transportation company vested
21 with the right of eminent domain under the laws of this state,
22 shall not be acquired without the consent of the company, or
23 without first securing, after due notice to the company and
24 after hearing, a certificate authorizing condemnation of the
25 property from the board, commission or body having the
26 authority to grant a certificate authorizing condemnation. In
27 a condemnation proceeding, if a municipality proposes to take
28 a part of a lot or parcel of real property, the municipality
29 shall also take the remaining part of the lot or parcel if
30 requested by the owner. The prohibition contained in this
31 section on the condemnation of agricultural land in an
32 economic development area without the consent of the owner is
33 intended to prevent the unnecessary condemnation of
34 agricultural land and to protect land used for an agricultural
35 purpose but is not intended to prevent the development of land

1 in highly commercial or industrial areas within a city.

2 Sec. 4. Section 403.17, Code 1997, is amended by adding
3 the following new subsection:

4 NEW SUBSECTION. 2A. "Agricultural land" means real
5 property that is used for the production of agricultural
6 commodities including, but not limited to, the raising,
7 harvesting, handling, drying, or storage of crops used for
8 feed, food, seed, or fiber; the care or feeding of livestock;
9 the handling or transportation of crops or livestock; the
10 storage, treatment, or disposal of livestock manure; and the
11 application of fertilizers, soil conditioners, pesticides, and
12 herbicides on crops.

13 Sec. 5. Section 403.17, subsection 9, Code 1997, is
14 amended to read as follows:

15 9. "Economic development area" means an area of a
16 municipality designated by the local governing body as
17 appropriate for commercial and industrial enterprises, public
18 improvements related to housing and residential development,
19 or construction of housing and residential development for low
20 and moderate income families, including single or multifamily
21 housing. If an urban renewal plan for an urban renewal area
22 is based upon a finding that the area is an economic
23 development area and that no part contains slum or blighted
24 conditions, then the division of revenue provided in section
25 403.19 and stated in the plan shall be limited to twenty years
26 from the calendar year following the calendar year in which
27 the city first certifies to the county auditor the amount of
28 any loans, advances, indebtedness, or bonds which qualify for
29 payment from the division of revenue provided in section
30 403.19. Such designated area shall not include agricultural
31 land, including land which is part of a century farm, unless
32 the owner of the agricultural land or century farm agrees to
33 include the agricultural land or century farm in the urban
34 renewal area. For the purposes of this subsection, "century
35 farm" means a farm in which at least forty acres of such farm

1 have been held in continuous ownership by the same family for
2 one hundred years or more.

3 Sec. 6. APPLICABILITY.

4 1. Sections 1, 2, 3, and 4 of this Act apply to urban
5 renewal areas established before, on, or after the effective
6 date of this Act and to amendments to such urban renewal
7 areas.

8 2. Section 5 of this Act applies to urban renewal areas
9 established on or after the effective date of this Act.
10 Section 5 of this Act also applies to agricultural land
11 included in an urban renewal area established before the
12 effective date of this Act if the agricultural land is
13 included in the urban renewal area by virtue of an amendment
14 to the urban renewal plan, which amendment is adopted on or
15 after the effective date of this Act.

16 Sec. 7. EFFECTIVE DATE. This Act, being deemed of
17 immediate importance, takes effect upon enactment.

18 EXPLANATION

19 This bill provides that agricultural land shall not be
20 condemned through the process of eminent domain for economic
21 development purposes unless the owner of the agricultural land
22 consents to the condemnation. The bill also provides that
23 agricultural land shall not be included in an urban renewal
24 area unless the owner of the agricultural land consents to the
25 inclusion. The bill defines "agricultural land" and "economic
26 development purposes".

27 The sections of the bill relating to condemnation of
28 agricultural property apply to urban renewal areas established
29 before, on, or after the effective date of the bill.

30 The section of the bill prohibiting inclusion of
31 agricultural land in an urban renewal area applies to urban
32 renewal areas established on or after the effective date of
33 the bill. That section also applies to agricultural land in
34 urban renewal areas established prior to the effective date of
35 the bill if the urban renewal plan was amended to include the

1 agricultural land on or after the effective date of the bill.

2 The bill takes effect upon enactment.

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1 Amend Senate File 2389 as follows:

2 1. Page 1, by striking lines 3 through 8, and
3 inserting the following: "This section is intended to
4 preserve agricultural land for agricultural production
5 by preventing the unnecessary condemnation of
6 agricultural land for economic development purposes
7 without the consent of the owner and by preventing the
8 use of condemnation for private development purposes.
9 This section is not intended to prevent the
10 rehabilitation of blighted areas in highly commercial
11 or industrial areas within the corporate limits of a
12 city."

13 2. Page 1, line 12, by inserting after the word
14 "condemnation." the following: "However, the eminent
15 domain authority provided in this chapter may be
16 exercised for the purpose of acquiring agricultural
17 land for industrial enterprise development without the
18 consent of the landowner if the economic development
19 board has approved the use of condemnation as provided
20 in section 15.104, subsection 9."

21 3. Page 1, by inserting after line 27, the
22 following:

23 "Sec. 100. Section 15.104, Code 1997, is amended
24 by adding the following new subsection:

25 NEW SUBSECTION. 9. Review all applications for
26 approval to exercise the eminent domain authority
27 granted under chapter 6A and determine whether the use
28 of the authority is necessary. The approval shall be
29 granted upon a finding of necessity by the board.
30 When making the determination, the board shall
31 consider all of the following:

32 a. The feasibility of alternatives to acquiring
33 the agricultural land other than by condemnation.

34 b. The public costs and benefits of locating the
35 enterprise on the agricultural land.

36 c. The existence of a willing seller at another
37 feasible location in the community.

38 d. The ability to adapt the industrial or
39 community economic development plans to avoid the use
40 of condemnation.

41 e. The existence of a specific industrial
42 enterprise to be located on the agricultural land.

43 The board may adopt rules pursuant to chapter 17A
44 to implement this subsection."

45 4. By striking page 2, line 30, through page 3,
46 line 1, and inserting the following: "requested by
47 the owner. This section is intended to preserve
48 agricultural land for agricultural production by
49 preventing the unnecessary condemnation of
50 agricultural land for economic development purposes

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1 without the consent of the owner and by preventing the
2 use of condemnation for private development purposes.

3 This section is not intended to prevent the
4 rehabilitation of blighted areas in highly commercial
5 or industrial areas within the corporate limits of a
6 city."

7 5. Page 4, line 4, by striking the word and
8 figure "and 4" and inserting the following: "4, and
9 100".

10 6. By renumbering as necessary.

BY ANDY MCKEAN

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Page 2

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7 5. Page 4, line 4, by striking the word and
8 figure "and 4" and inserting the following: "4, and
9 100".

10 6. By renumbering as necessary.

By ANDY MCKEAN

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