

JAN 11 1999
LOCAL GOVERNMENT

HOUSE FILE 27
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Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the exercise of the power of eminent domain
2 and to condemnation proceedings and including effective and
3 applicability date provisions.

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

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HF 27

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

3 This section is intended to preserve agricultural land for
4 agricultural production by preventing the condemnation of
5 agricultural land for private development purposes without the
6 consent of the owner. It is also intended to limit the use of
7 condemnation of any property for private development purposes.
8 It is not intended to prevent the rehabilitation of slum or
9 blighted areas, as defined in section 403.17, within the
10 corporate limits of a city.

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

30 Sec. 2. NEW SECTION. 6B.2A NOTICE OF CONDEMNATION.

31 1. The state of Iowa, or any entity or person conferred
32 the right to condemn private property under section 6A.4,
33 shall provide written notification to each owner of record and
34 each lessee of private property that may be the subject of
35 condemnation. The authority under this chapter is not

1 conferred and condemnation proceedings shall not begin unless
2 the notice as provided in this section is given to the owner
3 of record and lessee of the private property subject to
4 condemnation. The notice shall be mailed by ordinary mail no
5 less than thirty days before adoption of the ordinance,
6 resolution, motion, or other declaration of intent to proceed
7 with the public improvement and the acquisition or
8 condemnation, if necessary, of the property. The notice shall
9 include the statement of individual rights required under
10 section 6B.2B. The notice shall, at a minimum, include the
11 following information:

- 12 | a. The general nature of the public improvement.
13 | b. The state's or person's intended use of the private
14 property for the public improvement.
15 | c. The process to be followed by the state or person in
16 making the decision to proceed with the public improvement and
17 the acquisition or condemnation, if necessary, of the
18 property.
19 | d. The time, place, and manner at which an opportunity is
20 provided for public input into the decision to proceed with
21 the public improvement and the acquisition or condemnation, if
22 necessary, of the property.

23 | 2. The authority to condemn is not conferred until the
24 appropriate authority approves the public improvement,
25 including the approval of any permits required by state or
26 federal law.

27 | Sec. 3. NEW SECTION. 6B.2B ACQUISITION NEGOTIATION
28 STATEMENT OF RIGHTS.

29 | 1. The state or person conferred the right to take private
30 property for public use shall make a good faith effort to
31 negotiate with the owner to purchase the private property
32 before filing an application for condemnation.

33 | 2. The state or person conferred the right to take private
34 property for public use shall provide the owner of record and
35 any lessee of the private property with a statement of their

1 individual rights to be included with the notice required
2 under section 6B.2A. The attorney general shall adopt rules
3 pursuant to chapter 17A prescribing a statement of rights
4 which may be used in substantial form by any person required
5 to provide the statement by this section.

6 3. An owner or tenant occupying land which is proposed to
7 be acquired through condemnation, if necessary, shall be
8 awarded a sum sufficient to make the owner or tenant whole as
9 to the owner's or tenant's real property, personal property,
10 and business property and to put the owner or tenant in a
11 substantially similar position as the owner or tenant enjoyed
12 prior to condemnation.

13 Sec. 4. Section 6B.3, unnumbered paragraph 1, Code 1999,
14 is amended to read as follows:

15 Such The proceedings shall be instituted by a written
16 application filed with the chief judge of the judicial
17 district of the county in which the land sought to be
18 condemned is located. The applicant shall mail a copy of the
19 application by certified mail to the owner at the owner's last
20 known address and to any mortgagee of record at the
21 mortgagee's last known address and to any other record
22 lienholder or encumbrancer of the land at the lienholder's or
23 encumbrancer's last known address. Said The application shall
24 set forth:

25 Sec. 5. Section 6B.3, Code 1999, is amended by adding the
26 following new subsections:

27 NEW SUBSECTION. 6A. A showing of the minimum amount of
28 land necessary to achieve the public purpose and the amount of
29 land to be acquired by condemnation for the public
30 improvement. Any land to be acquired by condemnation beyond
31 the necessary minimum to complete the project shall be
32 presumed not to be necessary for a public use or public
33 purpose unless the applicant can show that a substantial need
34 exists for the additional property to achieve the public use
35 or public purpose, or that the land in question is of little

1 or no value or utility to the owner, or that the owner
2 consents to the condemnation.

3 NEW SUBSECTION. 6B. A statement indicating the efforts
4 made by the applicant to negotiate in good faith with the
5 owner to acquire the private property sought to be condemned.
6 The condemnation shall not proceed until the applicant has
7 made efforts to negotiate in good faith for the acquisition of
8 the property.

9 | Sec. 6. Section 6B.4, unnumbered paragraph 2, Code 1999,
10 is amended to read as follows:

11 The chief judge of the judicial district shall select by
12 lot six persons from the list, two persons who are owner-
13 operators of agricultural property when the property to be
14 condemned is agricultural property; two persons who are owners
15 of city property when the property to be condemned is other
16 than agricultural property; and two persons from each of the
17 remaining two representative groups, who shall constitute a
18 compensation commission to assess the damages to all property
19 to be taken by the applicant and located in the county, and
20 shall name a chairperson from the persons selected. No A
21 person shall not be selected as a member of the compensation
22 commission ~~selected-shall-possess~~ if the person possesses any
23 interest in the proceeding which would cause such the person
24 to render a biased decision. A list of those persons selected
25 shall be provided by regular mail to the applicant and to the
26 owner of the property at the owner's last known address. The
27 list shall be provided prior to the mailing, by any party, of
28 a notice of assessment under section 6B.8.

29 | Sec. 7. Section 6B.7, Code 1999, is amended to read as
30 follows:

31 | 6B.7 COMMISSIONERS TO QUALIFY.

32 Before proceeding with the assessment all commissioners
33 shall qualify by filing with the sheriff a written oath that
34 they will to the best of their ability faithfully and
35 impartially assess ~~said~~ damages and make a written report to

1 the sheriff. The applicant or the owner may challenge the
2 impartiality of any commissioner who may be dismissed for
3 cause and may dismiss one commissioner without stating cause.

4 Sec. 8. Section 6B.8, Code 1999, is amended to read as
5 follows:

6 6B.8 NOTICE OF ASSESSMENT.

7 The applicant, or the owner or any lienholder or
8 encumbrancer of any land described in the application, may, at
9 any time after the appointment of the commissioners, have the
10 damages to the lands of any such owner assessed by giving the
11 other party, if a resident of this state, ten days' notice, in
12 writing. Service of the notice to a person not a resident of
13 this state shall be by certified mail to the person's last
14 known address. Such notice shall specify the day and the hour
15 when the commissioners will view the premises, and be served
16 in the same manner as original notices.

17 Sec. 9. Section 6B.12, Code 1999, is amended to read as
18 follows:

19 6B.12 NOTICE TO NONRESIDENTS WHEN RESIDENCE UNKNOWN.

20 ~~If the owner of such lands or any person interested therein~~
21 ~~is a nonresident of this state, or if~~ If the person's
22 residence is unknown, ~~no demand for the land for the purposes~~
23 ~~sought shall be necessary, but~~ the notice aforesaid required
24 in section 6B.8 shall be published in ~~some~~ a newspaper of
25 general circulation in the county and of general circulation
26 therein, once each week for at least four successive weeks
27 prior to the day fixed for the appraisal, which day shall
28 be at least thirty days after the first publication of the
29 notice.

30 Sec. 10. Section 6B.14, unnumbered paragraph 3, Code 1999,
31 is amended to read as follows:

32 In addition to all other damages provided by law, ~~except~~
33 ~~moving expenses paid or required to be paid under relocation~~
34 ~~assistance programs,~~ an owner or tenant occupying land which
35 is proposed to be acquired by condemnation shall be awarded a

1 sum sufficient to remove such owner's or tenant's personal
2 property from the land to be acquired, which sum shall
3 represent reasonable costs of moving ~~said~~ the personal
4 property from the ~~said~~ land to be acquired to a point no
5 greater than ~~twenty-five~~ three hundred miles ~~therefrom~~; but in
6 any event, ~~said~~ damages for moving shall not exceed five
7 hundred thousand dollars for each owner or tenant occupying
8 land ~~so~~ proposed to be condemned.

9 Sec. 11. Section 6B.18, Code 1999, is amended to read as
10 follows:

11 6B.18 NOTICE OF APPRAISEMENT -- APPEAL OF AWARD.

12 After the appraisalment of damages has been delivered to the
13 sheriff by the compensation commission, the sheriff shall give
14 written notice, by ordinary certified mail, to the condemner
15 and the condemnee of the date on which the appraisalment of
16 damages was made, the amount of the appraisalment, and that any
17 interested party may, within thirty days from the date of
18 mailing receipt of the notice of the appraisalment of damages,
19 appeal to the district court. The sheriff shall endorse the
20 date of mailing of notice upon the original appraisalment of
21 damages. At the time of appeal, the appellant shall give
22 written notice that the appeal has been taken to the adverse
23 party, or the adverse party's agent or attorney, lienholders,
24 and the sheriff.

25 Sec. 12. Section 6B.26, Code 1999, is amended to read as
26 follows:

27 6B.26 DISPOSSESSION OF OWNER.

28 A landowner shall not be dispossessed, under condemnation
29 proceedings, of the landowner's residence, dwelling house,
30 outhouse outbuildings, orchard, or garden, until the damages
31 thereto have been finally determined and paid. However, if
32 the property described in this section is condemned for
33 highway purposes by the state department of transportation,
34 the condemning authority may take possession of the property
35 either after the damages have been finally determined and paid

1 or one hundred eighty days after the compensation commission
2 has determined and filed its award, in which event all of the
3 appraisement of damages shall be paid to the property owner
4 before the dispossession can take place. This section shall
5 not apply to condemnation proceedings for drainage or levee
6 improvements, or for public school purposes.

7 Sec. 13. Section 6B.33, Code 1999, is amended to read as
8 follows:

9 6B.33 COSTS AND ATTORNEY FEES.

10 The applicant shall pay all costs of the assessment made by
11 the commissioners and reasonable attorney fees and costs
12 incurred by the condemnee as determined by the commissioners
13 if the award of the commissioners exceeds one hundred ten
14 percent of the final offer of the applicant prior to
15 condemnation. The applicant shall file with the sheriff an
16 affidavit setting forth the most recent offer made to the
17 person whose property is sought to be condemned. ~~Members~~ The
18 applicant shall pay to the members of such commissions ~~shall~~
19 ~~receive~~ a per diem of fifty dollars and actual and necessary
20 expenses incurred in the performance of their official duties.
21 The applicant shall reimburse the owner for the expenses the
22 owner incurred for recording fees, transfer taxes, penalty
23 costs for full or partial prepayment of any preexisting
24 recorded mortgage entered into in good faith encumbering the
25 property, and for similar expenses incidental to conveying the
26 property to the applicant. The applicant shall also pay all
27 costs occasioned by the appeal, including reasonable attorney
28 fees to be taxed by the court, unless on the trial thereof the
29 same or a less amount of damages is awarded than was allowed
30 by the tribunal from which the appeal was taken.

31 Sec. 14. Section 6B.42, Code 1999, is amended to read as
32 follows:

33 6B.42 EMINENT DOMAIN -- PAYMENT TO DISPLACED PERSONS.

34 1. a. The state of Iowa or any entity or person conferred
35 the right to condemn private property under section 6A.4 shall

1 provide to the person, in addition to any other sums of money
2 in payment of just compensation, the payments and assistance
3 required by law, in accordance with chapter 316.

4 | b. A person aggrieved by a determination made as to
5 eligibility for relocation assistance, a payment, or the
6 amount of the payment, upon application, may have the matter
7 reviewed by the appropriate agency of the condemning
8 authority.

9 | c. A condemning authority subject to this section that
10 proposes to displace a person shall inform the person of the
11 person's right to receive relocation assistance and payments,
12 and of an aggrieved person's right to appeal a determination
13 as to assistance and payments.

14 | ~~1~~ 2. a. A utility or railroad subject to section 327C.2,
15 or chapters 476, 478, 479, and 479A, and 479B, authorized by
16 law to acquire property by condemnation, which acquires the
17 property of a person or displaces a person for a program or
18 project which has received or will receive federal financial
19 assistance as defined in section 316.1, shall provide to the
20 person, in addition to any other sums of money in payment of
21 just compensation, the payments and assistance required by
22 law, in accordance with chapter 316.

23 | ~~2~~ b. A person aggrieved by a determination made by a
24 utility as to eligibility for relocation assistance, a
25 payment, or the amount of the payment, upon application, may
26 have the matter reviewed by the utilities division of the
27 department of commerce.

28 | ~~3~~ c. A person aggrieved by a determination made by a
29 railroad as to eligibility for relocation assistance, a
30 payment, or the amount of the payment, upon application, may
31 have the matter reviewed by the state department of
32 transportation.

33 | ~~4~~ d. A utility or railroad subject to this section that
34 proposes to displace a person shall inform the person of the
35 person's right to receive relocation assistance and payments,

1 and of an aggrieved person's right to appeal to the utilities
2 division of the department of commerce or the state department
3 of transportation.

4 Sec. 15. Section 6B.45, Code 1999, is amended to read as
5 follows:

6 6B.45 ~~CONDEMNATION-FOR-ROAD-OR-STREET---~~ MAILING COPY OF
7 APPRAISAL.

8 When any real property or interest therein in real property
9 is to be purchased, or in lieu thereof to be condemned for
10 ~~highway, street or road purposes~~, the purchasing state agency,
11 county, or city, or their its agent shall submit to the
12 person, corporation, or entity whose property or interest
13 therein in the property is to be taken, by ordinary mail, at
14 least ten days prior to the date of contact, a copy of the
15 ~~appraisal~~ all appraisals in their entirety upon such real
16 property or interest therein in such real property prepared
17 for the purchasing state agency, county, or city, or its
18 agent, which shall include, at ~~least~~ a minimum, an itemization
19 of the appraised value of the real property or interest
20 therein in the property, any buildings thereon on the
21 property, all other improvements including fences, severance
22 damages and loss of access.

23 Sec. 16. Section 6B.54, unnumbered paragraph 1, Code 1999,
24 is amended to read as follows:

25 ~~If-a~~ For any project or displacing activity that has
26 received or will receive federal financial assistance as
27 defined in section 316.1, for any state-funded projects, or
28 for any other public improvement for which condemnation is
29 sought, an acquiring state agency, county, or city shall be
30 guided by the following policies:

31 Sec. 17. Section 6B.54, subsections 2, 3, 8, and 9, Code
32 1999, are amended to read as follows:

33 2. Real property shall be appraised as required by section
34 6B.45 before the initiation of negotiations, and the owner or
35 the owner's designated representative shall be given an

1 opportunity to accompany at least one appraiser of the
2 acquiring agency during an inspection of the property, except
3 that ~~the-state-department-of-transportation~~ a state agency,
4 county, or city may prescribe a procedure to waive the
5 appraisal in cases involving the acquisition of property with
6 a low fair market value.

7 | 3. Before the initiation of negotiations for real
8 property, the acquiring state agency, county, or city shall
9 establish an amount which it believes to be just compensation
10 for the real property, and shall make a prompt offer to
11 acquire the property for the full amount established by the
12 agency. In no event shall the amount be less than the
13 ~~agency's-approved~~ lowest appraisal of the fair market value of
14 the property.

15 8. If the acquisition of only a portion of property would
16 leave the owner with an uneconomical remnant, the ~~head-of-the~~
17 acquiring state agency concerned, county, or city shall offer
18 to acquire that remnant. For the purposes of this chapter, an
19 "uneconomical remnant" is a parcel of real property in which
20 the owner is left with an interest after the partial
21 acquisition of the owner's property, where the ~~head-of-the~~
22 acquiring state agency concerned, county, or city determines
23 that the parcel has little or no value or utility to the
24 owner.

25 9. A person whose real property is being acquired in
26 accordance with this chapter, after the person has been fully
27 informed of the person's right to receive just compensation
28 for the property, may donate the property, any part of the
29 property, any interest in the property, or any compensation
30 paid for it ~~to-any-agency~~ as the person may determine.

31 Sec. 18. Section 6B.54, subsection 10, unnumbered
32 paragraph 1, Code 1999, is amended to read as follows:

33 As soon as practicable after the date of payment of the
34 purchase price or the date of deposit in court of funds to
35 satisfy the award of compensation in a condemnation proceeding

1 to acquire real property, whichever is earlier, the acquiring
2 state agency, county, or city shall reimburse the owner, to
3 the extent the acquiring state agency, county, or city deems
4 fair and reasonable, for expenses the owner necessarily
5 incurred for all of the following:

6 Sec. 19. Section 6B.55, unnumbered paragraph 1, Code 1999,
7 is amended to read as follows:

8 ~~If-a~~ For any program or project that has received or will
9 receive federal financial assistance as defined in section
10 316.1, for any state-funded projects, or for any other public
11 improvement for which condemnation is sought, an acquiring
12 state agency, county, or city shall be guided by the following
13 policies:

14 Sec. 20. Section 6B.55, subsection 1, Code 1999, is
15 amended to read as follows:

16 1. If an interest in real property is acquired, the
17 acquiring state agency, county, or city shall acquire an equal
18 interest in all buildings, structures, or other improvements
19 located upon the real property which are required to be
20 removed from the real property or which are determined to be
21 adversely affected by the use to which the real property will
22 be put.

23 Sec. 21. Section 306.19, subsection 3, Code 1999, is
24 amended to read as follows:

25 3. None of the foregoing requirements shall prohibit the
26 property owner and the agency from entering into a mutually
27 acceptable agreement for the replacement, relocation,
28 construction, or maintenance of any alternate driveway on the
29 owner's property. Compensation for any property rights taken
30 in the establishment of any alternative temporary or permanent
31 access shall be paid as in any other purchase or condemnation
32 of property.

33 Sec. 22. Section 306.19, subsection 4, Code 1999, is
34 amended to read as follows:

35 4. ~~Compensation-for-any-property-rights-taken-in-the~~

~~1 establishment-of-any-alternative-temporary-or-permanent-access
2 shall-be-paid-as-in-any-other-purchase-or-condemnation-of
3 property- Proceedings for the condemnation of land for any
4 highway shall be under the provisions of chapter 6A and
5 chapter 6B. Provided-that,-in-the-condemnation-of-right-of-
6 way-for-secondary-roads,-the-board-of-supervisors-may-proceed
7 as-provided-in-sections-306-28-to-306-37-~~

8 Sec. 23. Section 306.27, Code 1999, is amended to read as
9 follows:

10 306.27 CHANGES FOR SAFETY, ECONOMY, AND UTILITY.

11 The state department of transportation as to primary roads
12 and the boards of supervisors as to secondary roads on their
13 own motion may change the course of any part of any road or
14 stream, watercourse, or dry run and may pond water in order to
15 avoid the construction and maintenance of bridges, or to avoid
16 grades, or railroad crossings, or to straighten a road, or to
17 cut off dangerous corners, turns or intersections on the
18 highway, or to widen a road above statutory width, or for the
19 purpose of preventing the encroachment of a stream,
20 watercourse or dry run upon the highway. The department and
21 the board of supervisors shall conduct its their proceedings
22 in the manner and form prescribed in chapter 6B, ~~and-the-board~~
23 ~~of-supervisors-shall-use-the-form-prescribed-in-sections~~
24 ~~306-28-to-306-37-or-as-provided-in-chapter-6B.~~ Changes are
25 subject to chapter 455B.

26 Sec. 24. Section 316.1, subsection 5, paragraphs a and b,
27 Code 1999, are amended to read as follows:

28 a. A person who moves from real property or moves the
29 person's personal property from real property in either any of
30 the following circumstances:

- 31 (1) As a direct result of a written notice of intent to
32 acquire, the initiation of negotiations for, or the
33 acquisition of, the real property in whole or in part for a
34 program or project undertaken with federal financial
35 assistance.

1 (2) The person moved or moved the person's personal
2 property from real property on which the person is either a
3 residential tenant or conducts a small business, a farm
4 operation, or a business as defined in subsection 2, paragraph
5 "d", as a direct result of rehabilitation or demolition for a
6 program or project undertaken with federal financial
7 assistance in a case in which the head of the displacing
8 agency determines that the displacement is permanent.

9 (3) As a direct result of a written notice of intent to
10 acquire, the initiation of negotiations for, or the
11 acquisition of, the real property in whole or in part by the
12 state of Iowa or by an entity or person conferred the right to
13 condemn private property.

14 b. For purposes of section 316.4, subsections 1 and 2, and
15 section 316.7, a person who moves from real property, or moves
16 the person's personal property from real property in either
17 any of the following circumstances:

18 (1) As a direct result of a written notice of intent to
19 acquire, the initiation of negotiations for, or the
20 acquisition of, other real property in whole or in part if the
21 person conducts a business or farm operation on the other real
22 property for a program or project undertaken with federal
23 financial assistance.

24 (2) As a direct result of rehabilitation or demolition of
25 other real property on which the person conducts a business or
26 a farm operation for a program or project undertaken with
27 federal financial assistance in a case in which the head of
28 the displacing agency determines that the displacement is
29 permanent.

30 (3) As a direct result of a written notice of intent to
31 acquire, the initiation of negotiations for, or the
32 acquisition of, other real property in whole or in part by the
33 state of Iowa or by an entity or person conferred the right to
34 condemn private property if the person conducts a business or
35 farm operation on the other real property.

1 Sec. 25. Section 331.304, subsection 8, Code 1999, is
2 amended to read as follows:

3 8. The power to take private property for public use shall
4 only be exercised by counties for public purposes which are
5 reasonable and necessary as an incident to the powers and
6 duties conferred upon counties, and in accordance with
7 chapters 6A and 6B. ~~Sections~~ Section 306.19 and-306-28-to
8 ~~306-37-are~~ is also applicable to condemnation of right of way
9 for secondary roads.

10 Sec. 26. Section 331.502, subsection 25, Code 1999, is
11 amended to read as follows:

12 25. Carry out duties relating to the establishment,
13 alteration, and vacation of public highways as provided in
14 sections 306.21, 306.25, ~~306-29-to-306-317-306-377~~ and 306.40.

15 Sec. 27. Section 403.5, subsection 4, Code 1999, is
16 amended by adding the following new unnumbered paragraph:

17 NEW UNNUMBERED PARAGRAPH. A municipality shall not condemn
18 agricultural land included within an economic development area
19 unless the owner of the agricultural land consents to
20 condemnation.

21 Sec. 28. Section 403.7, Code 1999, is amended to read as
22 follows:

23 403.7 CONDEMNATION OF PROPERTY.

24 A municipality shall have the right to acquire by
25 condemnation any interest in real property, including a fee
26 simple title thereto, which it may deem necessary for or in
27 connection with an urban renewal project under this chapter.
28 However, a municipality shall not condemn agricultural land
29 included within an economic development area unless the owner
30 of the agricultural land consents to condemnation.

31 The prohibition contained in this section on the
32 condemnation of agricultural land in an economic development
33 area without the consent of the owner is intended to limit
34 condemnation of agricultural land in order to protect land
35 used for an agricultural purpose but is not intended to

1 prevent the rehabilitation of slum or blighted areas, as
2 defined in section 403.17, within the corporate limits of a
3 city. A municipality may exercise the power of eminent domain
4 in the manner provided in chapter 6B, and Acts amendatory to
5 that chapter or supplementary to that chapter, or it may
6 exercise the power of eminent domain in the manner now or
7 which may be hereafter provided by any other statutory
8 provisions for the exercise of the power of eminent domain.
9 Property already devoted to a public use may be acquired in
10 like manner. However, real property belonging to the state,
11 or any political subdivision of this state, shall not be
12 acquired without its consent, and real property or any right
13 or interest in the property owned by any public utility
14 company, pipeline company, railway or transportation company
15 vested with the right of eminent domain under the laws of this
16 state, shall not be acquired without the consent of the
17 company, or without first securing, after due notice to the
18 company and after hearing, a certificate authorizing
19 condemnation of the property from the board, commission or
20 body having the authority to grant a certificate authorizing
21 condemnation. In a condemnation proceeding, if a municipality
22 proposes to take a part of a lot or parcel of real property,
23 the municipality shall also take the remaining part of the lot
24 or parcel if requested by the owner.

25 Sec. 29. Section 403.17, Code 1999, is amended by adding
26 the following new subsection:

27 NEW SUBSECTION. 2A. "Agricultural land" means real
28 property that is used for the production of agricultural
29 commodities including, but not limited to, the raising,
30 harvesting, handling, drying, or storage of crops used for
31 feed, food, seed, or fiber; the care of feeding of livestock;
32 the handling or transportation of crops or livestock; the
33 storage, treatment, or disposal of livestock manure; and the
34 application of fertilizers, soil conditioners, pesticides, and
35 herbicides on crops.

1 Sec. 30. Section 403.17, subsection 9, Code 1999, is
2 amended to read as follows:

3 9. "Economic development area" means an area of a
4 municipality designated by the local governing body as
5 appropriate for commercial and industrial enterprises, public
6 improvements related to housing and residential development,
7 or construction of housing and residential development for low
8 and moderate income families, including single or multifamily
9 housing. If an urban renewal plan for an urban renewal area
10 is based upon a finding that the area is an economic
11 development area and that no part contains slum or blighted
12 conditions, then the division of revenue provided in section
13 403.19 and stated in the plan shall be limited to twenty years
14 from the calendar year following the calendar year in which
15 the city first certifies to the county auditor the amount of
16 any loans, advances, indebtedness, or bonds which qualify for
17 payment from the division of revenue provided in section
18 403.19. Such designated area shall not include agricultural
19 land, including land which is part of a century farm, unless
20 the owner of the agricultural land or century farm agrees to
21 include the agricultural land or century farm in the urban
22 renewal area. For the purposes of this subsection, "century
23 farm" means a farm in which at least forty acres of such farm
24 have been held in continuous ownership by the same family for
25 one hundred years or more.

26 Sec. 31. Sections 306.28 through 306.37, Code 1999, are
27 repealed.

28 Sec. 32. APPLICABILITY. Sections 1, 27, 28, and 29 of
29 this Act, enacting section 6A.21, amending sections 403.5 and
30 403.7, and enacting section 403.17, subsection 2A, apply to
31 urban renewal areas established before, on, or after the
32 effective date of this Act and to amendments to such urban
33 renewal areas.

34 Section 30 of this Act, amending section 403.17, subsection
35 9, applies to urban renewal areas established on or after the

1 effective date of this Act. Section 30 of this Act also
2 applies to agricultural land included in an urban renewal area
3 established before the effective date of this Act if the
4 agricultural land is included in the urban renewal area by
5 virtue of an amendment to the urban renewal plan, which
6 amendment is adopted on or after the effective date of this
7 Act.

8 Sec. 33. EFFECTIVE DATE. This Act, being deemed of
9 immediate importance, takes effect upon enactment.

10

EXPLANATION

11 This bill makes several changes to the law relating to the
12 power of eminent domain and the procedures by which the state
13 of Iowa and other entities and persons are allowed to condemn
14 private property. Entities or persons conferred the right by
15 law to condemn private property include counties, cities,
16 owners of land without a way to the land, owners of mineral
17 lands, cemetery associations, and subdistricts of soil and
18 water conservation districts.

19 The bill defines "public use" or "public purpose" to
20 exclude the condemnation of agricultural land without the
21 consent of the owner. The bill defines "agricultural land" as
22 real property used for production of certain agricultural
23 products and defines "private development purposes" as the
24 construction of, or public improvement related to,
25 recreational development, housing and residential development,
26 or commercial or industrial enterprise development.

27 The bill requires a condemning authority to send a notice
28 of condemnation to the owner of property for which
29 condemnation is being considered and to any lessee of that
30 property. The notice must be mailed by ordinary mail no less
31 than 30 days before adoption of the declaration of intent
32 relating to the public improvement and the acquisition or
33 condemnation of the property. The notice, at a minimum,
34 should include information on the general nature of the public
35 improvement, the intended use of the property, the process

1 relating to the public improvement, and opportunity for public
2 input relating to the public improvement if the law requires
3 public input.

4 The bill requires a condemning authority to make a good
5 faith effort to negotiate with the owner to purchase the
6 private property before filing an application for
7 condemnation. The condemning authority is required to provide
8 the owner of the property and any lessee of the property with
9 a statement of rights. The statement is to be included with
10 the notice of condemnation. The bill provides that
11 condemnation may not proceed until the notice of condemnation
12 containing the statement of individual rights is provided to
13 the owner and to any lessee.

14 The bill requires a condemning authority to mail a copy of
15 the condemnation application filed with the district court to
16 the owner of the property and to any lessee of the property.
17 The bill also requires that the condemnation application
18 provide information on the minimum amount of land necessary
19 for the public improvement and the amount of land to be
20 acquired by condemnation. The condemnation application must
21 also include a statement of the efforts made by the condemning
22 authority to negotiate with the owner for the sale of the
23 property prior to filing the application.

24 The bill requires that a list of the persons selected to
25 serve on the compensation commission for condemnation
26 proceedings be provided to the condemnation applicant and to
27 the owner of the property. The bill allows an applicant or
28 owner to challenge the impartiality of any commissioner who
29 may then be dismissed for cause. The bill also allows the
30 applicant and the owner to each dismiss one commissioner
31 without stating cause.

32 The bill provides that service of notice of assessment
33 shall be mailed by certified mail to applicants or owners or
34 persons in interest, any of whom are not residents of the
35 state. Currently, service of notice to nonresidents is by

1 publication.

2 The bill increases the amount to be paid in moving expenses
3 from \$500 to \$5,000 for an owner or tenant occupying land that
4 has been condemned. The bill also increases that distance
5 that personal property is moved for which moving expenses are
6 paid from 25 miles to 300 miles.

7 The bill requires that notices of appraisalment sent to the
8 condemning authority and the condemnee be sent by certified
9 mail. The bill also changes the time that an interested
10 person may appeal the appraisalment to district court to 30
11 days from receipt of the notice of appraisalment. Currently,
12 the 30 days starts counting from the date the notice is
13 mailed.

14 The bill adds outbuildings to the list of property from
15 which a landowner may not be dispossessed by condemnation
16 without determination and payment of damages.

17 The bill provides that the condemnation applicant shall pay
18 the per diem and actual expenses to members of the
19 compensation commission. The bill also provides that the
20 applicant shall reimburse the owner of the property for
21 expenses incurred for recording fees, transfer taxes, mortgage
22 penalty costs, and similar expenses incidental to the transfer
23 of the property to the applicant.

24 The bill provides that relocation expenses for
25 condemnations by the state of Iowa or other entity or person
26 having the right to condemn property shall be determined and
27 paid in the same manner as relocation expenses for
28 condemnations involving federally funded projects.

29 The bill requires that a copy of all appraisals in their
30 entirety prepared for or by the purchasing state agency,
31 county, or city be mailed to the owner of the property.

32 The bill makes current acquisition policy guidelines for
33 projects receiving federal financial assistance applicable to
34 any state funded projects and to any other public improvement
35 for which condemnation is sought.

1 The bill provides that condemnation of property for
2 secondary roads shall be conducted according to the provisions
3 of chapters 6A and 6B. Those Code sections providing an
4 alternative condemnation procedure for counties to follow are
5 repealed.

6 The bill makes several changes to the law on urban renewal
7 as it relates to the power of eminent domain and condemnation
8 procedures. The bill provides that, in order to protect land
9 used for an agricultural purpose, a municipality (city or
10 county) shall not condemn agricultural land included within an
11 urban renewal area designated as an economic development area
12 without the consent of the owner of the agricultural land.

13 The section of the bill amending the definition of
14 "economic development area" for purposes of urban renewal,
15 applies to urban renewal areas established on or after the
16 effective date of the bill. However, the amendment applies to
17 urban renewal areas established before the effective date if
18 they were amended to add agricultural land to the economic
19 development urban renewal area after the effective date of the
20 bill. The remaining sections of the bill which amend or
21 reference Code chapter 403 apply to urban renewal areas
22 established before, on, or after the effective date of the
23 bill.

24 The bill takes effect upon enactment.
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