SENATE FILE 494
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO SF 161)

(As Amended and Passed by the Senate March 24, 2025)

_____ and [ = New Language by the Senate

* = Language Stricken by the Senate

## A BILL FOR

An Act prohibiting the regulation of certain residential gardens by state agencies and local governments.

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

Section 1. NEW SECTION. **137H.1 Short title.**

This chapter shall be known and may be cited as the *"Freedom to Garden Act"*.

Sec. 2. NEW SECTION. **137H.2 Definitions.**

As used in this chapter, unless the context otherwise requires:

1. *"Garden food"* means vegetables, herbs, fruits, flowers, pollinator plants, leafy greens, and other edible plants.

2. *"Local government"* includes but is not limited to a county, special district, township, or city as provided in Title IX.

3. *"Marketing"* means to offer for sale or sell, including by transfer, exchange, or barter, conditional or otherwise, in any manner by any means whatsoever, for consideration.

4. *"Residential garden"* means any plot of ground or elevated soil bed located as part of a yard attached to a residential property where garden food is produced and harvested primarily for the benefit of the individual who owns or leases the residential property or the members of the individual's family, household, or guests.

5. *"Residential property"* means real property consisting of not more than two family dwelling units, at least one of which is occupied as a principal place of residence.

6. *"State agency"* means a unit of state government, which is an authority, board, commission, committee, council, department, or independent agency as defined in section 7E.4, including but not limited to each principal central department enumerated in section 7E.5.

Sec. 3. NEW SECTION. **137H.3 General principle — public policy.**

1. As a general principle, each individual has a natural, inherent, and unalienable right to save and exchange seeds and the right to grow, raise, harvest, produce, and consume the food of the individual's own choosing for the individual's own nourishment, sustenance, bodily health, and well-being, as long

as the individual does not commit trespass, theft, poaching, or other abuse of private property rights, public land, or natural resources.

2. As a general principle, each individual has a natural, inherent, and unalienable right to market wholesome garden food harvested from that individual's residential garden, so long as the individual fairly represents that food to purchasers.

3. The public policy of this state is to recognize and encourage the development and expansion of the sustainable use of residential gardens, including the use of such properties to produce and harvest garden food.

Sec. 4. NEW SECTION. **137H.4 Residential garden regulation — prohibition.**

A state agency or local government shall not adopt or continue in effect any regulation, including in the form of a rule, ordinance, or resolution, that prohibits an individual from establishing, maintaining, or benefiting from a residential garden located on property owned or leased by that individual. A regulation in violation of this section is void and unenforceable.

Sec. 5. NEW SECTION. **137H.5 Residential garden regulation — applicability.**

Section 137H.4 does not apply to any of the following:

1. The use of residential property, if the titleholder or leaseholder of the residential property is a state agency or local government.

2. The use of residential property governed by a contract entered into by the titleholder or lessee of the residential property and a state agency or local government.

3. A regulation adopted in compliance with any of the following:

*a.* Chapter 190C.

*b.* Chapter 199, 200, 200A, or 206.

*c.* Chapter 317.

4. A plant growing in easement, in a ditch, or in a location

that obstructs traffic, including a view of traffic.

5. A plant that invades onto a neighbor's property.

6. A plant used to produce a controlled substance as defined in section 124.101, a precursor substance as described in section 124B.2, or cannabis.

7. A plant used to produce a substance used for medical or psychological purposes.

8. A plant that is competitive, persistent, or pernicious, and that may directly or indirectly cause damage to a crop or other useful plant, or that may injure an animal or fish, that may obstruct irrigation or drainage, or that poses a threat to the public health.

9. A practice found by a court to be a public or private nuisance, or that otherwise interferes with another person's legal enjoyment of property.

10. A regulation that does not target the use of a residential garden or a gardening practice, even though the regulation may impact upon its use, including but not limited to the construction and use of a structure, equipment, setback requirements, water use restrictions, or public safety.

Sec. 6. NEW SECTION. **137H.6 Regulation of selling food harvested from residential garden — prohibition.**

A state agency or local government shall not adopt or continue in effect any regulation, including in the form of a rule, ordinance, or resolution, that prohibits an individual from marketing food harvested from the individual's residential garden located on property owned or leased by that individual. A regulation in violation of this section is void and unenforceable.

Sec. 7. NEW SECTION. **137H.7 Selling food harvested from residential garden — applicability.**

Section 137H.6 does not apply to any of the following:

1. A plant that is subject to regulation under section 137H.5.

2. A public place where food is marketed by vendors,

including a farmers market.

3. The use of property owned or leased by a person other than the individual marketing the garden food.

4. An act that constitutes a public or private nuisance, trespass, or other public offense.

5. The marketing of food to children or a person adjudged incompetent by a court of law.

6. Garden food that is unwholesome or presents a clear danger to the public health.

7. Garden food that is processed by altering its form or identity.

8. Garden food that is falsely advertised.

9. A regulation that does not target the marketing of food harvested from a residential garden, even though the regulation may impact upon such marketing.

Sec. 8. Section 331.301, Code 2025, is amended by adding the following new subsection:

NEW SUBSECTION. 27. A county shall not adopt or continue in effect any regulation, including in the form of an ordinance or resolution, that prohibits an individual from establishing, maintaining, or benefiting from a residential garden as provided in chapter 137H. A county shall not adopt or continue in effect any regulation, including in the form of an ordinance or resolution, that prohibits that individual from marketing food harvested from the individual's residential garden as provided in that chapter.

Sec. 9. Section 364.3, Code 2025, is amended by adding the following new subsection:

NEW SUBSECTION. 20. A city shall not adopt or continue in effect any regulation, including in the form of an ordinance or resolution, that prohibits an individual from establishing, maintaining, or benefiting from a residential garden as provided in chapter 137H. A city shall not adopt or continue in effect any regulation, including in the form of an ordinance or resolution, that prohibits that individual from marketing food

harvested from the individual's residential garden as provided in that chapter.