

CHAPTER 108
SPECIAL LAND USE DISTRICTS
S.F. 85

AN ACT to authorize the creation of land use districts which encompass at least twenty thousand acres of predominately rural and agricultural land including at least seven unincorporated villages having the power to adopt and enforce zoning ordinances and levy a tax.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION. ELIGIBILITY AND PURPOSE.** A land use district shall not be created under this Act unless it is an area of contiguous territory encompassing twenty thousand acres or more of predominately rural and agricultural land owned by a single entity which has within its general boundaries at least seven platted villages which are not incorporated as municipalities at the time the district is organized. The eligible electors may create a land use district to conserve the distinctive historical and cultural character and peculiar suitability of the area for particular uses with a view to conserving the value of all existing and proposed structures and land and to preserve the quality of life of those citizens residing within the boundaries of the contiguous area by preserving its historical and cultural quality.

Sec. 2. **NEW SECTION. PETITION.** Ten percent or more of the qualified voters residing within the limits of a proposed land use district may file a petition in the office of the county auditor of the county in which the proposed land use district, or its major portion, is located, requesting that there be submitted to the qualified voters of the proposed district the question of whether the territory within the boundaries of the proposed district shall be organized as a land use district under this chapter. The petition shall be addressed to the board of supervisors of the county where it is filed and shall set forth the following:

1. An intelligible description of the boundaries of the territory to be embraced in the district.
2. The name of the proposed district.
3. That the territory to be embraced in the district has a distinctive historical and cultural character which might be preserved by the establishment of the district.
4. That the public welfare will be promoted by the establishment of the district.
5. The signatures of the petitioners.

Sec. 3. **NEW SECTION. JURISDICTION—DECISIONS—RECORDS.** The board of supervisors of the county in which the proposed land use district, or its major portion, is located has jurisdiction of the proceedings on the petition as provided in this Act and the decision of a majority of the members of that board is necessary for adoption. All orders of the board made under this Act shall be spread at length upon the records of the proceedings of the board of supervisors, but need not be published.

Sec. 4. **NEW SECTION. DATE AND NOTICE OF HEARING.** The board of supervisors to whom the petition is addressed, at its next regular, special, or adjourned meeting, shall set the time and place when it will meet for a hearing upon the petition, and direct the county auditor in whose office the petition is filed to cause notice to be given to all persons whom it

may concern, without naming them, of the pendency and prayer of the petition, by publication of a notice once each week for two consecutive weeks in some newspaper of general circulation published in the proposed district. The last publication shall not be less than twenty days prior to the date set for the hearing of the petition. If no such newspaper is published in the proposed district, then notice shall be by posting at least five copies of the notice in the proposed district at least twenty days before the hearing. Proof of giving notice shall be made by affidavit of the publisher or affidavit of the person who posted the notices, and the proof shall be on file with the county auditor at the time the hearing begins. The notice of hearing shall be directed to all persons it may concern, and shall state the following:

1. That a petition has been filed with the county auditor of that county for establishment of a proposed land use district and the name of the proposed district.
2. An intelligible description of the boundaries of the territory to be embraced in the district.
3. The date, hour, and place where the petition will come on for hearing before the board of supervisors of the named county.
4. That the board of supervisors will fix and determine the boundaries of the proposed district as described in the petition, and at the hearing all interested persons shall have an opportunity to be heard regarding the location and boundaries of the proposed district and to make suggestions regarding it.

Sec. 5. NEW SECTION. HEARING OF PETITION AND ORDER. The board of supervisors to whom the petition is addressed shall preside at the hearing provided for in section 4 of this Act and shall continue the hearing in session, with adjournments from day to day, if necessary, until completed, without being required to give any further notice of it. Proof of the residence and qualification of the petitioners as qualified voters shall be made by affidavit or otherwise as the board may direct. The board shall consider the boundaries of the proposed land use district, whether they shall be as described in the petition or otherwise, and for that purpose may alter and amend the petition and limit or change the boundaries of the proposed district as stated in the petition. The boundaries of a proposed district shall not be changed to include property not included in the original petition and published notice until the owner of that property is given notice as on the original hearing. All persons in the proposed district shall have an opportunity to be heard regarding the location and boundaries of the proposed district and to make suggestions regarding them. The board of supervisors, after hearing the statements, evidence, and suggestions made and offered at the hearing, shall enter an order fixing the boundaries of the proposed district and directing that an election be held for the purpose of submitting to the qualified voters residing within the boundaries of the proposed district the question of organization and establishment of the proposed land use district as determined by the board of supervisors. The order shall fix a date for the election not more than sixty days after the date of the order, establish voting precincts within the proposed district and define their boundaries, and specify the polling places which in the board's judgment will best serve the convenience of the voters, and shall appoint from residents of the proposed district three judges and two clerks of election for each voting precinct established.

Sec. 6. NEW SECTION. NOTICE OF ELECTION. In its order for the election the board of supervisors shall direct the county auditor to cause notice of the election to be given by posting at least five copies of the notice in public places in the proposed district at least twenty days before the date of election and by publication of the notice once each week for three consecutive weeks in some newspaper of general circulation published in the proposed district, or, if no such newspaper is published within the proposed district, then in such a newspaper published in the county in which the major part of the proposed district is located. The last publication is to be at least twenty days prior to the date of election. The notice shall state the

time and place of holding the election and the hours when the polls will be open and closed, the purpose of the election, with the name of the proposed district and a description of its boundaries, and shall set forth briefly the limits of each voting precinct and the location of the polling places. Proof of posting and publication shall be made in the manner provided in section 4 of this Act and filed with the county auditor.

Sec. 7. NEW SECTION. ELECTION. Each qualified voter residing within the proposed district may cast a ballot at the election and a person shall not vote in any precinct but that of the person's residence. Ballots at the election shall be in substantially the following form:

For Land Use District _____

Against Land Use District _____

The election shall be conducted in the manner provided by law for general elections and the ballots so cast shall be issued, received, returned, and canvassed in the same manner and by the same officers, in the county whose board of supervisors is vested with jurisdiction of the proceedings, as provided by law in the case of ballots cast for county officers, except as modified by this Act. The board of supervisors shall cause a statement of the result of the election to be spread upon the records of the county auditor. If a majority of the votes cast upon the question of incorporation of the proposed district is in favor of the proposed district, the proposed district becomes an organized district under this Act.

Sec. 8. NEW SECTION. EXPENSES AND COSTS OF ELECTION. All expenses incurred in carrying out sections 1 through 7 of this Act, including the costs of the election, as determined by the board of supervisors, shall be paid by the county whose board is vested with jurisdiction of the proceedings.

Sec. 9. NEW SECTION. ELECTION OF TRUSTEES—TERM OF OFFICE.

1. If the proposition to establish a land use district carries, a special election shall be called by the board of supervisors of the county which conducted the election to form the district. This special election shall be held within the newly created district at a single polling place designated by the county auditor not more than ninety days after the organization of the land use district. The election shall be held for the purpose of electing the initial seven members of the board of trustees of the land use district. The county auditor shall cause notice of the election to be posted and published, and shall perform all other acts with reference to the election, and conduct it in like manner, as nearly as may be, as provided in this Act for the election on the question of establishing the district. Each trustee must be a United States citizen not less than eighteen years of age and a resident of the district. Each qualified elector at the election may write in upon the ballot the names of not more than seven persons whom the elector desires for trustees and may cast not more than one vote for each of the seven persons. The seven persons receiving the highest number of votes cast shall constitute the first board of trustees of the district.

2. Following the initial special election, an annual election shall be held on the second Tuesday of each September at a single polling place within the district designated by the county auditor for the purpose of electing a trustee to replace a trustee whose term will expire. Notice of the election shall be posted by the county auditor at seven or more public places within the district at least two weeks prior to the date of the election. The county auditor shall perform all other acts with reference to the election and conduct it in like manner, as nearly as may be, as provided in this Act for the election on the question of establishing the district. Each qualified elector at the election may write upon the ballot the name of one person whom the elector desires as a trustee for each expiring term. The term of office for each trustee elected shall be three years.

3. Vacancies in the office of trustee of a land use district shall be filled by the remaining members of the board of trustees for the period extending to the second Tuesday in September at which time the qualified electors of the district shall elect a new trustee to fill the vacancy for the unexpired term. Expenses incurred in carrying out the annual elections of trustees shall be paid for by the land use district.

4. When the initial board of trustees is elected under this section the trustees shall be ranked in the order of votes received from highest to lowest. Any ties shall be resolved by a random method. The last ranked trustee shall receive an initial term expiring at the next annual election for trustees in September, the sixth and fifth ranked trustees receive an initial term expiring one year later, the fourth ranked trustee receives an initial term expiring two years after that election, the third and second ranked trustees receive initial terms expiring three years after that election, and the first ranked trustee shall receive an initial term expiring four years after that election.

Sec. 10. NEW SECTION. TRUSTEE'S BOND. Each trustee shall, before entering upon the duties of office, execute a bond payable to the district, with security to be approved by the board of supervisors which had jurisdiction of the petition for establishment of the district, in a form and amount as that board of supervisors may determine, and file the bond with the county auditor of that county.

Sec. 11. NEW SECTION. LAND USE DISTRICT TO BE A BODY CORPORATE. A land use district organized under this Act is a body corporate and politic, with the name and style under which it was organized, and by that name and style may sue and be sued, contract and be contracted with, acquire and hold real and personal property necessary for corporate purposes, adopt a corporate seal and alter it, and exercise all the powers conferred in this chapter.

The courts of this state shall take judicial notice of the existence of a land use district organized under this Act.

Sec. 12. NEW SECTION. BOARD OF TRUSTEES—POWERS.

1. The trustees elected under this Act constitute the board of trustees for the district, which is the corporate authority of the district, and shall exercise all the powers and manage and control all the affairs of the district. A majority of the board of trustees is a quorum, but a smaller number may adjourn from day to day. The board of trustees may elect a president, clerk, and a treasurer from their own number and, from without their own number, employees of the district. The compensation of members of the board of trustees is fixed not to exceed ten dollars per day, or any part of a day, for each day the board is actually in session and ten dollars per day when not in session but employed on board service, and twenty cents for every mile traveled in going to and from sessions of the board and in going to and from the place of performing board service. Members of the board shall not receive compensation for more than sixty days of session and board service each year.

2. The board of trustees shall formulate and administer a land use plan which includes all ordinances, resolutions, rules, and regulations necessary for the proper administration of the land use district. The land use plan shall be created for the primary purpose of regulating and restricting, where deemed necessary, the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land in a manner which would maintain or enhance the distinctive historical and cultural character of the district. The ordinances, resolutions, rules, and regulations shall not apply to any tillable farmland, pastureland, timber pasture or forestland located within the district.

3. The board of trustees shall provide for the manner in which the land use plan shall be established and enforced and amended, supplemented, or changed. However, a plan shall not become effective until after a public hearing on it, at which parties in interest and citizens of the district shall have an opportunity to be heard. At least fifteen days notice of the time and place of the hearing shall be published in a newspaper of general circulation within the district giving the time, date, and location of the public hearing.

4. The board of trustees shall appoint an administrative officer authorized to enforce the resolutions or ordinances adopted by the board of trustees. The board of trustees may pay the administrative officer such compensation as it deems fit, not exceeding that authorized for the members of the board, from the funds of the district.

Sec. 13. NEW SECTION. CHANGES AND AMENDMENTS. The land use plan, once established, may be amended, supplemented, changed, modified, or repealed. In case, however, of a protest against a change signed by the owners of twenty percent or more either of the area included in the proposed change, or of the immediately adjacent area and within five hundred feet of the boundaries, the amendment shall not become effective except by the favorable vote of at least eighty percent of all of the members of the board of trustees.

Sec. 14. NEW SECTION. BOARD OF ADJUSTMENT. The board of trustees of the district shall provide for the appointment of a board of adjustment, shall provide that the board of adjustment may, in appropriate cases, and subject to appropriate conditions and safeguards, make special exceptions to the terms of the land use plan which are in harmony with its general purpose and intent and in accordance with the general or specific rules of the plan, and provide that a property owner aggrieved by the action of the board of trustees in the adoption of the land use plan may petition the board of adjustment directly to modify regulations and restrictions as applied to those property owners.

Sec. 15. NEW SECTION. MEMBERSHIP OF BOARD. The board of adjustment shall consist of five members, all of whom shall reside within the district, each to be appointed for a term of five years. For the initial board one member shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year. Members shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of a member whose term becomes vacant.

Sec. 16. NEW SECTION. RULES. The board of adjustment shall adopt rules in accordance with any regulation or ordinance adopted by the board of trustees pursuant to this Act. Meetings of the board of adjustment shall be held at the call of the chairperson and at other times as the board determines. The chairperson, or the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

Sec. 17. NEW SECTION. APPEALS TO BOARD. Appeals to the board of adjustment may be taken by any person aggrieved or affected by the land use plan. The appeal shall be taken within a reasonable time, as provided by the rules of the board of adjustment, by filing with the board of adjustment a notice of appeal specifying the grounds of the appeal.

Sec. 18. NEW SECTION. POWERS OF BOARD. The board of adjustment may:

1. Hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of this Act or of any ordinance adopted pursuant to it.

2. Hear and decide special exceptions to the terms of the ordinance upon which the board is required to pass under the ordinance.

3. Authorize upon appeal, in specific cases, a variance from the terms of the land use plan which are not contrary to the public interest, where owing to special conditions a literal enforcement of the plan would result in unnecessary hardship, and so that the spirit of the plan shall be observed and substantial justice done.

Sec. 19. NEW SECTION. DECISION. In exercising its powers the board may, in conformity with this Act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or

determination as ought to be made, and to that end shall have all the powers of the board of trustees from whom the appeal is taken.

Sec. 20. NEW SECTION. VOTE REQUIRED. The concurring vote of three members of the board is necessary to reverse an order, requirement, decision, or determination, or to decide in favor of the applicant on a matter upon which it is required to pass under an ordinance or to effect a variation in the land use plan.

Sec. 21. NEW SECTION. PETITION TO COURT. Any persons, jointly or severally, aggrieved by a decision of the board of adjustment under this Act, or any taxpayer, may present to a court of record a petition, duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

Sec. 22. NEW SECTION. REVIEW BY COURT. Upon the presentation of a petition, the court may allow a writ of certiorari directed to the board of adjustment to review the decision of the board of adjustment prescribing the time within which a return must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ does not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

Sec. 23. NEW SECTION. TRIAL TO COURT. If upon the hearing, which shall be tried de novo, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence as it directs and report the evidence to the court with findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the board unless it appears to the court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

Sec. 24. NEW SECTION. PRECEDENCE. All issues in any proceedings under sections 1 through 23 of this Act have preference over all other civil actions and proceedings.

Sec. 25. NEW SECTION. RESTRAINING ORDER. If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or a building, structure, or land is used in violation of this Act or of an ordinance or other regulation made under this Act, the board of trustees, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate the violation, to prevent the occupancy of the building, structure, or land, or to prevent any illegal act, conduct, business, or use in, or about the premises.

Sec. 26. NEW SECTION. TAXES—POWER TO LEVY—TAX SALES. The board of trustees of a land use district organized under this Act may by ordinance levy annually for the purpose of paying the administrative costs of the district, a tax upon real property within the territorial limits of the land use district not exceeding twenty-seven cents per thousand dollars of the adjusted taxable valuation of the property for the preceding fiscal year. The tax shall not be levied on any tillable farmland, pastureland, timber pasture or forestland located within the district.

Taxes levied by the board shall be certified on or before the first day of March to the county auditor of each county where any of the property included within the territorial limits of the land use district is located, and shall be placed upon the tax list for the current year, and the county treasurer shall collect the taxes in the same manner as other taxes, and when delinquent they shall draw the same interest and penalties. All taxes so levied and collected shall be paid over to the treasurer of the district.

Sales for delinquent taxes owing to a land use district shall be made at the same time and in the same manner as sales are made for other taxes, and all provisions of the law of this state

relating to the sale of property for delinquent taxes are applicable, so far as may be, to such sales.

Sec. 27. **NEW SECTION. RECORDS AND DISBURSEMENTS.** The clerk of each land use district shall keep a record of all the proceedings and actions of the trustees. The treasurer shall receive, collect, and disburse all moneys belonging to the district, and no claim shall be paid or disbursement made until it has been duly audited by the board of trustees.

Sec. 28. **NEW SECTION. CONFLICT WITH OTHER REGULATIONS.** If the regulations made under this Act impose higher standards than are required in any other statute or local ordinance or regulation, the regulations made under this Act govern. If any other statute or local ordinance or regulation imposes higher standards than are required by the regulations made under authority of this Act, that statute or ordinance or regulation governs. If a regulation proposed or made under this Act relates to a structure, building, dam, obstruction, deposit, or excavation in or on the flood plains of a river or stream, prior approval of the department of water, air and waste management is required to establish, amend, supplement, change, or modify the regulation or to grant a variation or exception from it.

Sec. 29. Sections 1 through 28 of this Act are created as a new division of chapter 303.

Approved May 9, 1983

CHAPTER 109

BANKHEAD-JONES FARM TENANT ACT FUNDS

H.F. 557

AN ACT relating to the use of the Bankhead-Jones Farm Tenant Act funds by the family farm development authority to insure or guarantee loans made to certain farmers.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 175.30, Code 1983, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Beginning with the effective date of this Act, the authority shall establish an insurance or guarantee loan program with those funds received pursuant to section 175.28 to the extent those funds were not committed under a program authorized by this chapter on the effective date of this Act. This program shall provide for the insuring or guaranteeing of seventy-five percent of the amount of an agricultural loan, not in excess of twenty-five thousand dollars, made to a beginning farmer to provide new operating moneys for farming purposes in this state. The authority shall insure or guarantee only one such loan of that farmer. The authority shall insure or guarantee a loan for only one year but with the option to extend the insurance or guarantee once for an additional year. The authority shall not insure or guarantee a loan where the ratio of the beginning farmer's liabilities, excluding the amount of the loan, to assets is greater than three to one. Provision shall be made in the insuring or guaranteeing of a loan that only those funds set aside for this program as provided in this paragraph shall be used for the payment of all or a portion of the loan insured