

January 28, 1963.
Judiciary 1.

House File 91
By REPPERT and DENMAN.

Passed House, Date.....

Passed Senate, Date.....

Vote: Ayes..... Nays.....

Vote: Ayes..... Nays.....

Approved.....

A BILL FOR

An Act relating to tort liability of municipal corporations.

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

1 Section 1. Section three hundred eighty-nine point twelve

2 (389.12), Code 1962, is hereby amended as follows:

3 1. By striking from line five (5) the word "same" and
4 inserting in lieu thereof the words "portions thereof designed
5 for vehicular and pedestrian traffic".

6 2. By adding thereto the following new paragraph:

7 "When any city or town negligently fails to keep the portions
8 of the streets, highways, avenues, and alleys designed for vehi-
9 ular and pedestrian traffic open and in repair and free from
10 nuisances and has had notice of the existence of such condition,
11 defect, or nuisance and a reasonable opportunity to remedy or
12 abate same, such failure shall be an exception to the govern-
13 mental immunity from tort liability of such city or town. When
14 such failure is the proximate cause of any injury to person or
15 property, it shall, upon proper proof thereof and in the absence
16 of contributory negligence, supervening negligence, or voluntary
17 assumption of risk be liable in damages to the injured party in
18 an amount not to exceed ten thousand (10,000) dollars because of
19 bodily injury to or death of one (1) person as the result of any
20 one such negligent act, not to exceed twenty thousand (20,000)
21 dollars because of bodily injury to or death of two (2) or more

22 persons as the result of any one such negligent act, and not to
23 exceed five thousand (5,000) dollars because of any injury to
24 or destruction of property as the result of any one such negli-
25 gent act.

26 "All cities and towns shall have power to purchase and pay
27 the premium charge on liability and property damage insurance
28 covering and insuring such risk."

1 Sec. 2. Section three hundred sixty-eight point thirty-three
2 (368.33), Code 1962, is amended by adding at the end thereof the
3 following:

4 "Sidewalk shall be considered a part of the street for pur-
5 poses of section three hundred eighty-nine point twelve (389.12)."

EXPLANATION OF HOUSE FILE 91

The ever-increasing awards in verdicts returned by juries and the steady erosion of the common-law doctrine of governmental immunity by the courts make it essential that statutory provision be made to define the scope of such immunity and limit the amount of such liability. Authority to insure against such liability is also needed by reason of the variable effect from year to year of verdicts upon taxation, but the premiums would be astronomical unless such limits be placed on the amount of liability.