

FEB 23 2005  
WAYS AND MEANS

HOUSE FILE 408  
BY KURTENBACH and STRUYK

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to property assessment for purposes of property  
2 taxation, including property assessment guidelines and  
3 creation of a property assessment appeal board to hear appeals  
4 of the actions of local boards of review.

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

HF 408

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1 Section 1. NEW SECTION. 421.1A PROPERTY ASSESSMENT  
2 APPEAL BOARD.

3 1. A statewide property assessment appeal board is created  
4 for the purpose of establishing a consistent, fair, and  
5 equitable property assessment appeal process. The statewide  
6 property assessment appeal board is established within the  
7 department of revenue for administrative and budgetary  
8 purposes. The board's principal office shall be in the office  
9 of the department of revenue in the capital of the state.

10 2. a. The property assessment appeal board shall consist  
11 of three members appointed to staggered six-year terms,  
12 beginning and ending as provided in section 69.19, by the  
13 governor and subject to confirmation by the senate. Subject  
14 to confirmation by the senate, the governor shall appoint from  
15 the members a chairperson of the board to a two-year term.  
16 Vacancies on the board shall be filled for the unexpired  
17 portion of the term in the same manner as regular appointments  
18 are made. The term of office for the initial board shall  
19 begin January 1, 2007.

20 b. Each member of the property assessment appeal board  
21 shall be qualified by virtue of at least two years' experience  
22 in the area of government, corporate, or private practice  
23 relating to property appraisal and property tax  
24 administration. One member of the board shall be a certified  
25 real estate appraiser or hold a professional appraisal  
26 designation, one member shall be an attorney practicing in the  
27 area of state and local taxation or property tax appraisals,  
28 and one member shall be a professional with experience in the  
29 field of accounting or finance and with experience in state  
30 and local taxation matters. No more than two members of the  
31 board may be from the same political party as that term is  
32 defined in section 43.2.

33 c. The property assessment appeal board shall organize by  
34 appointing an executive secretary who shall take the same oath  
35 of office as the members of the board. The board shall set

1 the salary of the executive secretary within the limits of the  
2 pay plan for exempt positions provided for in section 8A.413,  
3 subsection 2. The board may employ additional personnel as it  
4 finds necessary.

5 3. At the election of a property owner or aggrieved  
6 taxpayer or an appellant described in section 441.42, the  
7 property assessment appeal board shall review any final  
8 decision, finding, ruling, determination, or order of a local  
9 board of review relating to protests of an assessment,  
10 valuation, or application of an equalization order.

11 4. The property assessment appeal board may do all of the  
12 following:

13 a. Affirm, reverse, or modify a final decision, finding,  
14 ruling, determination, or order of a local board of review.

15 b. Order the payment or refund of property taxes in a  
16 matter over which the board has jurisdiction.

17 c. Grant other relief or issue writs, orders, or  
18 directives that the board deems necessary or appropriate in  
19 the process of disposing of a matter over which the board has  
20 jurisdiction.

21 d. Subpoena documents and witnesses and administer oaths.

22 e. Adopt administrative rules pursuant to chapter 17A for  
23 the administration and implementation of its powers, including  
24 rules for practice and procedure for protests filed with the  
25 board, the manner in which hearings on appeals of assessments  
26 shall be conducted, filing fees to be imposed by the board,  
27 and for the determination of the correct assessment of  
28 property which is the subject of an appeal.

29 f. Adopt administrative rules pursuant to chapter 17A  
30 necessary for the preservation of order and the regulation of  
31 proceedings before the board, including forms or notice and  
32 the service thereof, which rules shall conform as nearly as  
33 possible to those in use in the courts of this state.

34 5. The property assessment appeal board shall employ a  
35 competent attorney to serve as its general counsel, and

1 assistants to the general counsel as it finds necessary for  
2 the full and efficient discharge of its duties,  
3 notwithstanding section 13.7. The general counsel is the  
4 attorney for, and legal advisor of, the board. The general  
5 counsel or an assistant to the general counsel shall provide  
6 the necessary legal advice to the board in all matters and  
7 shall represent the board in all actions instituted in a court  
8 challenging the validity of a rule or order of the board. The  
9 general counsel shall devote full time to the duties of the  
10 office. During employment as general counsel to the board,  
11 the counsel shall not be a member of a political committee,  
12 contribute to a political campaign, participate in a political  
13 campaign, or be a candidate for partisan political office.

14 6. The members of the property assessment appeal board  
15 shall receive a salary commensurate with the salary of a  
16 district judge. The members of the board, any administrative  
17 law judges, and any employees of the board, when required to  
18 travel in the discharge of official duties, shall be paid  
19 their actual and necessary expenses incurred in the  
20 performance of duties.

21 Sec. 2. Section 428.4, unnumbered paragraph 1, Code 2005,  
22 is amended to read as follows:

23 Property shall be assessed for taxation each year. Real  
24 estate shall be listed and assessed in 1981 and every two  
25 years thereafter. The assessment of real estate shall be the  
26 value of the real estate as of January 1 of the year of the  
27 assessment. The year 1981 and each odd-numbered year  
28 thereafter shall be a reassessment year. In any year, after  
29 the year in which an assessment has been made of all the real  
30 estate in an assessing jurisdiction, the assessor shall value  
31 and assess or revalue and reassess, as the case may require,  
32 any real estate that the assessor finds was incorrectly valued  
33 or assessed, or was not listed, valued, and assessed, in the  
34 assessment year immediately preceding, also any real estate  
35 the assessor finds has changed in value subsequent to January

1 of the preceding real estate assessment year. However, a  
2 percentage increase on a class of property shall not be made  
3 in a year not subject to an equalization order unless ordered  
4 by the department of revenue. The assessor shall determine  
5 the actual value and compute the taxable value thereof as of  
6 January 1 of the year of the revaluation and reassessment.  
7 The assessment shall be completed as specified in section  
8 441.28, but no reduction or increase in actual value shall be  
9 made for prior years. If an assessor makes a change in the  
10 valuation of the real estate as provided for, sections 441.23,  
11 441.37, 441.37A, 441.38 and 441.39 apply.

12 Sec. 3. Section 441.19, subsection 4, Code 2005, is  
13 amended to read as follows:

14 4. The supplemental returns ~~herein~~ provided for in this  
15 section shall be preserved in the same manner as assessment  
16 rolls, but shall be confidential to the assessor, board of  
17 review, property assessment appeal board, or director of  
18 revenue, and shall not be open to public inspection, but any  
19 final assessment roll as made out by the assessor shall be a  
20 public record, provided that such supplemental return shall be  
21 available to counsel of either the person making the return or  
22 of the public, in case any appeal is taken to the board of  
23 review, to the property assessment appeal board, or to the  
24 court.

25 Sec. 4. Section 441.21, subsection 1, Code 2005, is  
26 amended by adding the following new paragraph:

27 NEW PARAGRAPH. h. The assessor shall determine the value  
28 of real property in accordance with rules adopted by the  
29 department of revenue and in accordance with forms and  
30 guidelines contained in the real property appraisal manual  
31 prepared by the department as updated from time to time. Such  
32 rules, forms, and guidelines shall not be inconsistent with or  
33 change the means, as provided in this section, of determining  
34 the actual, market, taxable, and assessed values. If the  
35 director of revenue determines that an assessor has willfully

1 disregarded the rules of the department relating to valuation  
2 of property or has willfully disregarded the forms and  
3 guidelines contained in the real property appraisal manual,  
4 the department shall instruct the treasurer of state to  
5 withhold the road use tax fund apportionment authorized in  
6 section 312.3 to the county or city, as applicable, until the  
7 director of revenue determines that the assessor is in  
8 compliance. The department shall adopt rules relating to  
9 application of this paragraph.

10 Sec. 5. Section 441.21, subsection 2, Code 2005, is  
11 amended to read as follows:

12 2. In the event market value of the property being  
13 assessed cannot be readily established in the foregoing  
14 manner, then the assessor may determine the value of the  
15 property using the other uniform and recognized appraisal  
16 methods including its productive and earning capacity, if any,  
17 industrial conditions, its cost, physical and functional  
18 depreciation and obsolescence and replacement cost, and all  
19 other factors which would assist in determining the fair and  
20 reasonable market value of the property but the actual value  
21 shall not be determined by use of only one such factor. The  
22 following shall not be taken into consideration: Special  
23 value or use value of the property to its present owner, and  
24 the good will or value of a business which uses the property  
25 as distinguished from the value of the property as property.  
26 However, in assessing property that is rented or leased to  
27 low-income individuals and families as authorized by section  
28 42 of the Internal Revenue Code, as amended, and which section  
29 limits the amount that the individual or family pays for the  
30 rental or lease of units in the property, the assessor shall  
31 use the productive and earning capacity from the actual rents  
32 received as a method of appraisal and shall take into account  
33 the extent to which that use and limitation reduces the market  
34 value of the property. The assessor shall not consider any  
35 tax credit equity or other subsidized financing as income

1 provided to the property in determining the assessed value.  
2 The property owner shall notify the assessor when property is  
3 withdrawn from section 42 eligibility under the Internal  
4 Revenue Code. The property shall not be subject to section 42  
5 assessment procedures for the assessment year for which  
6 section 42 eligibility is withdrawn. This notification must  
7 be provided to the assessor no later than March 1 of the  
8 assessment year or the owner will be subject to a penalty of  
9 five hundred dollars for that assessment year. The penalty  
10 shall be collected at the same time and in the same manner as  
11 regular property taxes. Upon adoption of uniform rules by the  
12 revenue department of revenue or succeeding authority covering  
13 assessments and valuations of such properties, said the  
14 valuation on such properties shall be determined in accordance  
15 therewith with such rules and in accordance with forms and  
16 guidelines contained in the real property appraisal manual  
17 prepared by the department as updated from time to time for  
18 assessment purposes to assure uniformity, but such rules,  
19 forms, and guidelines shall not be inconsistent with or change  
20 the foregoing means of determining the actual, market, taxable  
21 and assessed values.

22 Sec. 6. Section 441.28, Code 2005, is amended to read as  
23 follows:

24 441.28 ASSESSMENT ROLLS -- CHANGE -- NOTICE TO TAXPAYER.

25 The assessment shall be completed not later than April 15  
26 each year. If the assessor makes any change in an assessment  
27 after it has been entered on the assessor's rolls, the  
28 assessor shall note on said the roll, together with the  
29 original assessment, the new assessment and the reason for the  
30 change, together with the assessor's signature and the date of  
31 the change. Provided, however, in the event the assessor  
32 increases any assessment the assessor shall give notice in  
33 writing thereof to the taxpayer by mail prior to the meeting  
34 of the board of review. No changes shall be made on the  
35 assessment rolls after April 15 except by order of the board

1 of review or of the property assessment appeal board, or by  
2 decree of court.

3 Sec. 7. Section 441.35, unnumbered paragraph 2, Code 2005,  
4 is amended to read as follows:

5 In any year after the year in which an assessment has been  
6 made of all of the real estate in any taxing district, ~~it~~  
7 ~~shall-be-the-duty-of~~ the board of review to shall meet as  
8 provided in section 441.33, and where ~~it~~ the board finds the  
9 same has changed in value, ~~to~~ the board shall revalue and  
10 reassess any part or all of the real estate contained in such  
11 taxing district, and in such case, ~~it~~ the board shall  
12 determine the actual value as of January 1 of the year of the  
13 revaluation and reassessment and compute the taxable value  
14 thereof, ~~and any.~~ Any aggrieved taxpayer may petition for a  
15 revaluation of the taxpayer's property, but no reduction or  
16 increase shall be made for prior years. If the assessment of  
17 any such property is raised, or any property is added to the  
18 tax list by the board, the clerk shall give notice in the  
19 manner provided in section 441.36, ~~provided, however, that.~~  
20 However, if the assessment of all property in any taxing  
21 district is raised, the board may instruct the clerk to give  
22 immediate notice by one publication in one of the official  
23 newspapers located in the taxing district, and such published  
24 notice shall take the place of the mailed notice provided for  
25 in section 441.36, but all other provisions of ~~said~~ that  
26 section shall apply. The decision of the board as to the  
27 foregoing matters shall be subject to appeal to the property  
28 assessment appeal board within the same time and in the same  
29 manner as provided in section 441.37A and to the district  
30 court within the same time and in the same manner as provided  
31 in section 441.38.

32 Sec. 8. NEW SECTION. 441.37A APPEAL OF PROTEST TO  
33 PROPERTY ASSESSMENT APPEAL BOARD.

34 1. For the assessment year beginning January 1, 2007, and  
35 all subsequent assessment years, appeals may be taken from the

1 action of the board of review with reference to protests of  
2 assessment, valuation, or application of an equalization order  
3 to the property assessment appeal board created in section  
4 421.1A. However, a property owner or aggrieved taxpayer or an  
5 appellant described in section 441.42 may bypass the property  
6 assessment appeal board and appeal the decision of the local  
7 board of review to the district court pursuant to section  
8 441.38. For an appeal to the property assessment appeal board  
9 to be valid, written notice must be filed by the party  
10 appealing the decision with the executive secretary of the  
11 property assessment appeal board within twenty days after the  
12 date the board of review's letter of disposition of the appeal  
13 is postmarked to the party making the protest. The written  
14 notice of appeal shall include a petition setting forth the  
15 basis of the appeal and the relief sought. No new grounds in  
16 addition to those set out in the protest to the local board of  
17 review as provided in section 441.37 can be pleaded, but  
18 additional evidence to sustain those grounds may be  
19 introduced. The assessor shall not have the same right to  
20 appeal to the assessment appeal board as an individual  
21 taxpayer, public body, or other public officer as provided in  
22 section 441.42.

23 Filing of the written notice of appeal and petition with  
24 the executive secretary of the property assessment appeal  
25 board shall preserve all rights of appeal of the appellant,  
26 except as otherwise provided in subsection 2. A copy of the  
27 appellant's written notice of appeal and petition shall be  
28 mailed by the executive secretary of the property assessment  
29 appeal board to the local board of review whose decision is  
30 being appealed. In all cases where a change in assessed  
31 valuation of one hundred thousand dollars or more is  
32 petitioned for, the local board of review shall mail a copy of  
33 the written notice of appeal and petition to all affected  
34 taxing districts as shown on the last available tax list.

35 2. A party to the appeal may request a hearing or the

1 appeal may proceed without a hearing. If a hearing is  
2 requested, the appellant and the local board of review from  
3 which the appeal is taken shall be given at least thirty days'  
4 written notice by the property assessment appeal board of the  
5 date the appeal shall be heard and the local board of review  
6 may be present and participate at such hearing. Notice to all  
7 affected taxing districts shall be deemed to have been given  
8 when written notice is provided to the local board of review.  
9 Failure by the appellant to appear at the property assessment  
10 appeal board hearing shall be grounds for dismissal of the  
11 appeal unless a continuance is granted to the appellant. If  
12 an appeal is dismissed for failure to appear, the property  
13 assessment appeal board shall have no jurisdiction to consider  
14 any subsequent appeal on the appellant's protest. However,  
15 the appellant may make such appeal to district court and the  
16 appeal to district court shall be filed no later than ten days  
17 after the appellant receives notice of the dismissal.

18 An appeal may be considered by less than a majority of the  
19 members of the board, and the chairperson of the board may  
20 assign members to consider appeals. If a hearing is  
21 requested, it shall be open to the public and shall be  
22 conducted in accordance with the rules of practice and  
23 procedure adopted by the board. However, any deliberation of  
24 the officer considering the appeal in reaching a decision on  
25 any appeal shall be confidential. The property assessment  
26 appeal board, or any member of the board, may require the  
27 production of any books, records, papers, or documents as  
28 evidence in any matter pending before the board that may be  
29 material, relevant, or necessary for the making of a just  
30 decision. Any books, records, papers, or documents produced  
31 as evidence shall become part of the record of the appeal.  
32 Any testimony given relating to the appeal shall be  
33 transcribed and made a part of the record of the appeal.

34 3. a. The officer considering the appeal shall determine  
35 anew all questions arising before the local board of review

1 which relate to the liability of the property to assessment or  
2 the amount thereof. All of the evidence shall be considered  
3 and there shall be no presumption as to the correctness of the  
4 valuation of assessment appealed from. The property  
5 assessment appeal board shall make a decision in each appeal  
6 filed with the board. If the appeal is considered by less  
7 than a majority of the board, the determination made by that  
8 member shall be forwarded to the full board for approval,  
9 rejection, or modification. If the initial determination is  
10 rejected by the board, it shall be returned for  
11 reconsideration to the board member making the initial  
12 determination. Any deliberation of the board regarding an  
13 initial determination shall be confidential.

14 b. The decision of the board shall be considered the final  
15 agency action for purposes of further appeal, except as  
16 otherwise provided in section 441.49. The decision shall be  
17 final unless appealed to district court as provided in section  
18 441.38. The levy of taxes on any assessment appealed to the  
19 board shall not be delayed by any proceeding before the board,  
20 and if the assessment appealed from is reduced by the decision  
21 of the board, any taxes levied upon that portion of the  
22 assessment reduced shall be abated or, if already paid, shall  
23 be refunded. If the subject of an appeal is the application  
24 of an equalization order, the property assessment appeal board  
25 shall not order a reduction in assessment greater than the  
26 amount that the assessment was increased due to application of  
27 the equalization order. Each party to the appeal shall be  
28 responsible for the costs of the appeal incurred by that  
29 party.

30 Sec. 9. Section 441.38, Code 2005, is amended to read as  
31 follows:

32 441.38 APPEAL TO DISTRICT COURT.

33 1. Appeals may be taken from the action of the local board  
34 of review with reference to protests of assessment, to the  
35 district court of the county in which the board holds its

1 sessions within twenty days after its adjournment or May 31,  
2 whichever date is later. Appeals may be taken from the action  
3 of the property assessment appeal board to the district court  
4 of the county where the property which is the subject of the  
5 appeal is located within twenty days after the letter of  
6 disposition of the appeal by the property assessment appeal  
7 board is postmarked to the appellant. No new grounds in  
8 addition to those set out in the protest to the local board of  
9 review as provided in section 441.37, or in addition to those  
10 set out in the appeal to the property assessment appeal board,  
11 if applicable, can be pleaded, but additional evidence to  
12 sustain those grounds may be introduced. The assessor shall  
13 have the same right to appeal and in the same manner as an  
14 individual taxpayer, public body or other public officer as  
15 provided in section 441.42. Appeals shall be taken by filing  
16 a written notice of appeal with the clerk of district court.  
17 Filing of the written notice of appeal shall preserve all  
18 rights of appeal of the appellant.

19 2. Notice of appeal shall be served as an original notice  
20 on the chairperson, presiding officer, or clerk of the board  
21 of review, and on the executive secretary of the property  
22 assessment appeal board, if applicable, after the filing of  
23 notice under subsection 1 with the clerk of district court.

24 Sec. 10. Section 441.42, Code 2005, is amended by adding  
25 the following new unnumbered paragraph:

26 NEW UNNUMBERED PARAGRAPH. An officer or taxpayer who makes  
27 a complaint with respect to an assessment under the authority  
28 of this section may appeal the decision of the board of review  
29 to the property assessment appeal board pursuant to section  
30 441.37A or to the district court pursuant to section 441.38.

31 Sec. 11. Section 441.43, Code 2005, is amended to read as  
32 follows:

33 441.43 POWER OF COURT.

34 Upon trial of any appeal from the action of the board of  
35 review or of the property assessment appeal board fixing the

1 amount of assessment upon any property concerning which  
2 complaint is made, the court may increase, decrease, or affirm  
3 the amount of the assessment appealed from.

4 Sec. 12. Section 441.49, unnumbered paragraph 5, Code  
5 2005, is amended to read as follows:

6 The local board of review shall reconvene in special  
7 session from October 15 to November 15 for the purpose of  
8 hearing the protests of affected property owners or taxpayers  
9 within the jurisdiction of the board whose valuation of  
10 property if adjusted pursuant to the equalization order issued  
11 by the director of revenue will result in a greater value than  
12 permitted under section 441.21. The board of review shall  
13 accept protests only during the first ten days following the  
14 date the local board of review reconvenes. The board of  
15 review shall limit its review to only the timely filed  
16 protests. The board of review may adjust all or a part of the  
17 percentage increase ordered by the director of revenue by  
18 adjusting the actual value of the property under protest to  
19 one hundred percent of actual value. Any adjustment so  
20 determined by the board of review shall not exceed the  
21 percentage increase provided for in the director's  
22 equalization order. The determination of the board of review  
23 on filed protests is final, subject to appeal to the property  
24 assessment appeal board. A final decision by the local board  
25 of review, or the property assessment appeal board, if the  
26 local board's decision is appealed, is subject to review by  
27 the director of revenue for the purpose of determining whether  
28 the board's actions substantially altered the equalization  
29 order. In making the review, the director has all the powers  
30 provided in chapter 421, and in exercising the powers the  
31 director is not subject to chapter 17A. Not later than  
32 fifteen days following the adjournment of the board, the board  
33 of review shall submit to the director of revenue, on forms  
34 prescribed by the director, a report of all actions taken by  
35 the board of review during this session.



1 complies with the rules, forms, and guidelines.

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1 Section 1. Section 427.1, subsection 21, Code 2005, is  
2 amended to read as follows:

3 21. LOW-RENT HOUSING. The property owned and operated or  
4 controlled by a nonprofit organization, as recognized by the  
5 internal revenue service, providing low-rent housing for  
6 persons who are elderly and persons with physical and mental  
7 disabilities. The exemption granted under the provisions of  
8 this subsection shall apply only until the terms final payment  
9 due date of the borrower's original low-rent housing  
10 development mortgage or until the borrower's original low-rent  
11 housing development mortgage is paid in full or expires,  
12 whichever is sooner, subject to the provisions of subsection  
13 14. However, if the borrower's original low-rent housing  
14 development mortgage is refinanced, the exemption shall apply  
15 only until the date that would have been the final payment due  
16 date under the terms of the borrower's original low-rent  
17 housing development mortgage or until the refinanced mortgage  
18 is paid in full or expires, whichever is sooner, subject to  
19 the provisions of subsection 14.

20 Sec. 2. Section 427.1, Code 2005, is amended by adding the  
21 following new subsection:

22 NEW SUBSECTION. 21A. Dwelling unit property owned and  
23 managed by a nonprofit organization if the nonprofit  
24 organization owns and manages more than forty dwelling units  
25 that are located in a city with a population of more than one  
26 hundred ten thousand which has a public housing authority that  
27 does not own or manage housing stock for the purpose of low-  
28 rent housing.

29 Sec. 3. PROPERTY TAX EXEMPTION STATUS. This Act is not  
30 considered a property tax exemption enacted on or after  
31 January 1, 1997, for purposes of section 25B.7.

32 Sec. 4. EFFECTIVE AND APPLICABILITY DATES. This Act,  
33 being deemed of immediate importance, takes effect upon  
34 enactment and applies retroactively to January 1, 2005, for  
35 assessment years beginning on or after that date.

SENATE FILE 408

S-3188

1 Amend Senate File 408 as follows:

2 1. Page 1, by inserting after line 17, the  
3 following:

4 "Sec. \_\_\_\_ . Section 441.21, Code 2005, is amended  
5 by adding the following new subsection:

6 NEW SUBSECTION. 13. Beginning with valuations  
7 established on or after January 1, 2007, as used in  
8 this section, "residential property" includes all  
9 lands and buildings which are primarily used or  
10 intended for human habitation, except rental units or  
11 apartment buildings where the term of the lease is for  
12 thirty-one or fewer days, hotels, motels, nursing  
13 homes, and rest homes."

14 2. Page 1, line 23, by inserting before the word  
15 "applies" the following: ", unless otherwise provided  
16 in this Act,".

17 3. Title page, line 1, by striking the words "the  
18 exemption from property taxation of" and inserting the  
19 following: "residential property taxation  
20 classifications and exemptions, including".

21 4. By renumbering as necessary. .

By STEWART IVERSON, Jr.

S-3188 FILED APRIL 27, 2005

RULED OUT OF ORDER