

JAN 31 2006  
JUDICIARY

HOUSE FILE 2200  
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Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act limiting the exercise of eminent domain authority over  
2 certain residential property.

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

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HF 2200

1 Section 1. NEW SECTION. 6A.22 CONDEMNATION OF CERTAIN  
2 RESIDENTIAL PROPERTY -- DEFINITIONS.

3 1. As used in this chapter and chapter 6B, unless the  
4 context otherwise requires:

5 a. "Private development purposes" means the construction  
6 of, or improvement related to, recreational development paid  
7 for primarily with private funds, housing and residential  
8 development, or commercial or industrial enterprise  
9 development.

10 b. "Public use", "public purpose", or "public improvement"  
11 does not include the authority to condemn residential property  
12 for private development purposes unless the owner of the  
13 residential property consents to the condemnation.

14 c. "Residential property" means real property which is an  
15 owner-occupied single-family dwelling or an owner-occupied  
16 dwelling containing no more than two single-family dwelling  
17 units, and structures incidental or appurtenant to the  
18 dwelling. Residential property does not include any real  
19 property declared to be a horizontal property regime under  
20 chapter 499B.

21 2. The limitation in subsection 1 on the definition of  
22 public use, public purpose, or public improvement does not  
23 apply to a slum area or blighted area as defined in section  
24 403.17, or to property necessary for a municipal housing  
25 project under chapter 403A, or to the establishment,  
26 relocation, or improvement of a road pursuant to chapter 306,  
27 or to the establishment of a railway under the supervision of  
28 the department of transportation as provided in section  
29 327C.2, or to an airport as defined in section 328.1, or to  
30 land acquired in order to replace or mitigate land used in a  
31 road project when federal law requires replacement or  
32 mitigation. This limitation also does not apply to utilities  
33 or persons under the jurisdiction of the Iowa utilities board  
34 in the department of commerce or to any other utility  
35 conferred the right by statute to condemn private property or

1 to otherwise exercise the power of eminent domain.

2 Sec. 2. Section 403.7, Code 2005, is amended to read as  
3 follows:

4 403.7 CONDEMNATION OF PROPERTY.

5 A municipality shall have the right to acquire by  
6 condemnation any interest in real property, including a fee  
7 simple title thereto, which it may deem necessary for or in  
8 connection with an urban renewal project under this chapter,  
9 subject to the limitations on eminent domain authority in  
10 chapter 6A. However, a municipality shall not condemn  
11 agricultural land included within an economic development area  
12 unless the owner of the agricultural land consents to  
13 condemnation or unless the agricultural land is to be acquired  
14 for industry as that term is defined in section 260E.2. A  
15 municipality may shall exercise the power of eminent domain in  
16 the manner provided in chapter 6B,~~and Acts amendatory to that~~  
17 ~~chapter or supplementary to that chapter, or it may exercise~~  
18 ~~the power of eminent domain in the manner now or which may be~~  
19 ~~hereafter provided by any other statutory provisions for the~~  
20 ~~exercise of the power of eminent domain.~~ Property already  
21 devoted to a public use may be acquired in like manner.  
22 However, real property belonging to the state, or any  
23 political subdivision of this state, shall not be acquired  
24 without its consent, and real property or any right or  
25 interest in the property owned by any public utility company,  
26 pipeline company, railway or transportation company vested  
27 with the right of eminent domain under the laws of this state,  
28 shall not be acquired without the consent of the company, or  
29 without first securing, after due notice to the company and  
30 after hearing, a certificate authorizing condemnation of the  
31 property from the board, commission or body having the  
32 authority to grant a certificate authorizing condemnation. In  
33 a condemnation proceeding, if a municipality proposes to take  
34 a part of a lot or parcel of real property, the municipality  
35 shall also take the remaining part of the lot or parcel if

1 requested by the owner.

2 Sec. 3. Section 403A.20, Code 2005, is amended to read as  
3 follows:

4 403A.20 CONDEMNATION OF PROPERTY.

5 A municipality shall have the right to acquire by  
6 condemnation any interest in real property, including a fee  
7 simple title thereto, which it may deem necessary for or in  
8 connection with a municipal housing project under this  
9 chapter. A municipality ~~may~~ shall exercise the power of  
10 eminent domain in the manner provided in chapter 6B~~7~~7 ~~and acts~~  
11 ~~amendatory thereof or supplementary thereto, or it may~~  
12 ~~exercise the power of eminent domain in the manner now or~~  
13 ~~which may be hereafter provided by any other statutory~~  
14 ~~provisions for the exercise of the power of eminent domain.~~  
15 Property already devoted to a public use may be acquired in  
16 like manner: ~~---Provided, that no.~~ However, real property  
17 belonging to the state, or any political subdivision thereof,  
18 ~~may shall not~~ be acquired without its consent, ~~provided~~  
19 ~~further that no~~ and real property or any right or interest  
20 ~~therein in the property~~ owned by any public utility company,  
21 pipeline company, railway or transportation company vested  
22 with the right of eminent domain under the laws of this state,  
23 shall not be acquired without the consent of ~~such~~ the company,  
24 or without first securing, after due notice to ~~such~~ the  
25 company and after hearing, a certificate authorizing  
26 condemnation of such property from the board, commission or  
27 body having the authority to grant a certificate authorizing  
28 condemnation.

29 In a condemnation proceeding, if a municipality proposes to  
30 take a part of a lot or parcel of real property, the  
31 municipality shall also take the remaining part of the lot or  
32 parcel if requested by the owner.

33 EXPLANATION

34 This bill provides that residential property cannot be  
35 condemned for private development purposes. The bill defines

1 "residential property"; "private development purposes"; and  
2 "public use", "public purpose", and "public improvement" in  
3 the context of eminent domain authority over residential  
4 property. The bill provides exceptions to the limitation on  
5 condemnation of residential property.

6 The bill specifies that the authority to exercise the right  
7 of eminent domain under the urban renewal chapter of the Code  
8 is subject to the limitations on eminent domain authority in  
9 Code chapter 6A, "Eminent Domain Law (Condemnation)", and the  
10 general procedure for condemnation of property set out in Code  
11 chapter 6B, "Procedure Under Eminent Domain".

12 The bill provides that a municipality seeking to exercise  
13 the right of eminent domain for a municipal housing project is  
14 subject to the general condemnation procedures set out in Code  
15 chapter 6B but is not subject to the limitation on  
16 condemnation of residential property. Also, relating to  
17 municipal housing projects, the bill provides that if a  
18 municipality proposes to take a part of a lot or parcel of  
19 real property, the municipality shall also take the remaining  
20 part of the lot or parcel if requested by the owner. The same  
21 requirement currently applies to condemnation of property for  
22 urban renewal purposes.

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