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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **536**

02/13/2013 Authored by Davnie, Lesch, Hoppe, Davids, Dehn, R., and others

The bill was read for the first time and referred to the Committee on Housing Finance and Policy

03/13/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Civil Law

1.1 A bill for an act
1.2 relating to real property; establishing notice for contracts for deed involving
1.3 residential property; providing remedies; amending Minnesota Statutes 2012,
1.4 sections 507.235, subdivision 2; 559.211, subdivision 2; proposing coding for
1.5 new law in Minnesota Statutes, chapter 559; repealing Minnesota Statutes 2012,
1.6 section 507.235, subdivision 4.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2012, section 507.235, subdivision 2, is amended to read:

1.9 Subd. 2. **Penalty for failure to file.** (a) A vendee who fails to record a contract for
1.10 deed, as required by subdivision 1, is subject to a civil penalty, payable under subdivision
1.11 5, equal to two percent of the principal amount of the contract debt, unless the vendee
1.12 has not received a copy of the contract for deed in recordable form, as required under
1.13 subdivision 1a. Payments of the penalty shall be deposited in the general fund of the
1.14 county. The penalty may be enforced as a lien against the vendee's interest in the property.

1.15 (b) A person receiving an assignment of a vendee's interest in a contract for deed
1.16 who fails to record the assignment as required by subdivision 1 is subject to a civil penalty,
1.17 payable under subdivision 5, equal to two percent of the original principal amount of the
1.18 contract debt. Payments of the penalty must be deposited in the general fund of the county.
1.19 The penalty may be enforced as a lien against the vendee's interest in the property.

1.20 Sec. 2. **[559.201] DEFINITIONS.**

1.21 Subdivision 1. **Application.** The definitions in this section apply to section 559.202.

1.22 Subd. 2. **Business day.** "Business day" means any day other than a Saturday,
1.23 Sunday, or holiday as defined in section 645.44, subdivision 5.

2.1 Subd. 3. **Family farm security loan.** "Family farm security loan" has the meaning
2.2 given in Minnesota Statutes 2008, section 41.52, subdivision 5.

2.3 Subd. 4. **Multiple seller.** "Multiple seller" means a person that has acted as the
2.4 seller in four or more contracts for deed involving residential real property in Minnesota in
2.5 any calendar year.

2.6 Subd. 5. **Person.** "Person" means a natural person, partnership, corporation, limited
2.7 liability company, association, trust, or other legal entity, however organized.

2.8 Subd. 6. **Purchase agreement.** "Purchase agreement" means a purchase agreement
2.9 for a contract for deed, an earnest money contract, or an executed option contemplating
2.10 that, at closing, the seller and the purchaser will enter into a contract for deed.

2.11 Subd. 7. **Purchaser.** "Purchaser" means a natural person who enters into a contract
2.12 for deed to purchase residential real property. Purchaser includes all purchasers who enter
2.13 into the same contract for deed to purchase residential real property.

2.14 Subd. 8. **Residential real property.** "Residential real property" means real property
2.15 improved or intended to be improved by a structure designed principally for the occupancy
2.16 of one to four families, whether or not the owner occupies the real property. Residential
2.17 real property does not include property subject to sections 583.20 to 583.32.

2.18 Sec. 3. **[559.202] CONTRACTS FOR DEED INVOLVING RESIDENTIAL**
2.19 **PROPERTY.**

2.20 Subdivision 1. **Notice required.** (a) A multiple seller must deliver the notice
2.21 specified under subdivision 3 to a prospective purchaser as provided under this subdivision.

2.22 (b) If there is a purchase agreement, the notice required by subdivision 2 must be
2.23 affixed to the front of the purchase agreement. A contract for deed for which notice is
2.24 required under this subdivision may not be executed for five business days following
2.25 the execution of the purchase agreement and delivery of the notice and instructions for
2.26 cancellation.

2.27 (c) If there is no purchase agreement, a multiple seller must deliver the notice in a
2.28 document separate from any other document or writing, to a prospective purchaser no less
2.29 than five business days before the prospective purchaser executes the contract for deed.

2.30 (d) The notice must be:

2.31 (1) written in at least 12-point type;

2.32 (2) provided in English and in a substantially accurate translation of any other
2.33 language used to negotiate the transaction; and

2.34 (3) signed and dated by the purchaser.

3.1 (e) If a dispute arises concerning whether or when the notice required by this
 3.2 subdivision was provided to the purchaser, there is a rebuttable presumption that the notice
 3.3 was not provided if the multiple seller cannot produce a copy of the notice signed and
 3.4 dated by the purchaser.

3.5 Subd. 2. **Exception.** This section does not apply if the purchaser is represented
 3.6 throughout the transaction by either:

3.7 (1) a person licensed to practice law in this state; or

3.8 (2) a person licensed as a real estate broker or salesperson under chapter 82,
 3.9 provided that the representation does not create a dual agency, as that term is defined
 3.10 in section 82.55, subdivision 6.

3.11 Subd. 3. **Content of the notice.** The notice must contain the following verbatim
 3.12 language:

3.13 **"IMPORTANT INFORMATION ABOUT CONTRACTS FOR DEED**

3.14 **Know What You Are Getting Into**

3.15 (1) A contract for deed is a complex legal agreement. You are NOT a tenant. The
 3.16 foreclosure laws don't apply.

3.17 (2) You should know ALL of your obligations and rights before you sign a purchase
 3.18 agreement or contract for deed.

3.19 (3) You (seller must circle one):

3.20 (a) DO DO NOT have to pay homeowner's insurance.

3.21 (b) DO DO NOT have to pay property taxes.

3.22 (c) DO DO NOT have to make and pay for some or all of the repairs or
 3.23 maintenance.

3.24 (4) After some time, you may need to make a large lump sum payment (called a "balloon
 3.25 payment"). Know when it is due and how much it will be. You'll probably need to get a
 3.26 new mortgage from a bank at that time.

3.27 (5) If you miss just a single payment or can't make the balloon payment, the seller can
 3.28 cancel your contract. You will likely lose all the money you have already paid. You will
 3.29 likely lose your ability to purchase the home. The seller can begin an eviction action
 3.30 against you in just a few months.

3.31 **Key Things to Do Before You Sign**

3.32 (1) Get advice from a lawyer or the Minnesota Home Ownership Center at
 3.33 1-866-462-6466. To find a lawyer through the Minnesota State Bar Association, go to
 3.34 www.mnfindalawyer.com.

4.1 (2) Get an independent, professional appraisal of the property to learn what it is worth.

4.2 (3) Get an independent, professional inspection of the property.

4.3 (4) Buy title insurance or ask a real estate lawyer for a "title opinion."

4.4 (5) Check with the city or county to find out if there are inspection reports or unpaid
4.5 utility bills.

4.6 (6) Check with a title company or the county where the property is located to find out if
4.7 there is a mortgage or other lien on the property and if the property taxes have been paid.

4.8 **If You Are Entering into a Purchase Agreement**

4.9 (1) You can cancel it and get your money back if you didn't get this notice five business
4.10 days before you sign the contract for deed AND you haven't signed the contract yet.

4.11 (2) To cancel the purchase agreement, you must follow the provisions of Minnesota
4.12 Statutes, section 559.217, subdivision 4. Ask a lawyer for help."

4.13 Subd. 4. **Right to cancel purchase agreement.** (a) A prospective purchaser may
4.14 cancel a purchase agreement within five business days after actually receiving the notice
4.15 required under subdivision 1 if a multiple seller fails to timely deliver the notice, provided
4.16 that the contract for deed has not been executed by all parties.

4.17 (b) A prospective purchaser may cancel the purchase agreement in accordance with
4.18 the provisions of section 559.217, subdivision 4.

4.19 (c) In the event of cancellation, the multiple seller may not impose a penalty and must
4.20 promptly refund all payments made by the prospective purchaser prior to cancellation.

4.21 Subd. 5. **Remedies for failure to timely deliver notices.** (a) Notwithstanding
4.22 any contrary provision in the purchase agreement or contract for deed, a purchaser has
4.23 a private right of action against a multiple seller who fails to timely deliver the notice
4.24 required under subdivision 1. The multiple seller is liable to the purchaser for:

4.25 (1) the greater of actual damages or statutory damages of \$2,500; and

4.26 (2) reasonable attorney fees and court costs.

4.27 (b) The amount due to the purchaser may, at the purchaser's option, be applied
4.28 to offset outstanding contract installment payments past due or next due under the
4.29 contract for deed. The right to offset expires upon cancellation of the contract for deed in
4.30 accordance with applicable law. Recording of the documents specified in section 559.213
4.31 constitutes prima facie evidence that any right to offset under this subdivision has expired.

4.32 (c) A multiple seller who knowingly fails to timely deliver the notice required
4.33 under subdivision 1 is liable to the purchaser for treble the actual and statutory damages
4.34 available under paragraph (a), whichever is greater, provided that the purchaser must elect

5.1 the remedy provided under either paragraph (b) or this paragraph and may not recover
5.2 damages under both paragraphs.

5.3 (d) The rights and remedies provided in this subdivision are cumulative to, and not
5.4 a limitation of, any other rights and remedies provided under law. Any action brought
5.5 pursuant to this subdivision must be commenced within four years from the date of the
5.6 alleged violation.

5.7 Subd. 6. **Duty of multiple seller to account.** Upon reasonable request by the
5.8 purchaser and no more than once every 12-month period, a multiple seller must provide an
5.9 accounting of all payments made pursuant to the contract for deed, the amount of interest
5.10 paid, and the amount remaining to satisfy the principal balance under the contract.

5.11 Subd. 7. **No waiver.** The provisions of this section may not be waived.

5.12 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to
5.13 transactions in which the contract for deed and the purchase agreement for the contract
5.14 for deed, if any, were both executed on or after that date.

5.15 Sec. 4. Minnesota Statutes 2012, section 559.211, subdivision 2, is amended to read:

5.16 Subd. 2. **Remedies additional.** The remedies provided in this section are in
5.17 addition to and do not limit other rights or remedies available to purchasers or vendors of
5.18 real estate. Subject to the provisions of sections 559.213 and 559.217, subdivision 7, this
5.19 section shall not be construed to bar a court from determining the validity, effectiveness,
5.20 or consequences of proceeding under section 559.21 or 559.217, or granting other relief in
5.21 connection therewith, by reason of the failure of a purchaser to seek or obtain relief under
5.22 this section prior to the purported effective date of the termination of the contract.

5.23 Sec. 5. **REPEALER.**

5.24 Minnesota Statutes 2012, section 507.235, subdivision 4, is repealed.

5.25 **EFFECTIVE DATE.** This section is effective the day following final enactment.

APPENDIX
Repealed Minnesota Statutes: H0536-1

507.235 FILING CONTRACTS FOR DEED.

Subd. 4. **Criminal penalty.** A person who is required to record a contract for deed or an assignment of a contract for deed under subdivision 1 and who fails to record the contract for deed or assignment within 14 days of receipt of the notice required under subdivision 5 is guilty of a misdemeanor. A city in which the land is located or, if the land is not located within a city, the county in which the land is located, may prosecute criminal violations of this section. This criminal liability is in addition to civil liability imposed under this section.