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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3389

02/12/2024 Authored by Pursell, Curran and Fischer
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Finance and Policy
02/26/2024 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Civil Law
03/14/2024 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time

1.1 A bill for an act
1.2 relating to natural resources; requiring disclosure of subsurface drain tile; proposing
1.3 coding for new law in Minnesota Statutes, chapter 103F.

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

1.5 Section 1. 103F.49 DRAIN TILE SELLER'S DISCLOSURE REQUIRED.

1.6 Subdivision 1. Definition. For purposes of this section, "drain tile" means a system of
1.7 tile, corrugated plastic tubing, pipe, or other conduit installed beneath the ground surface
1.8 to collect and convey water.

1.9 Subd. 2. Disclosure required. (a) Before signing an agreement to sell or transfer real
1.10 property classified for purposes of taxation under section 273.13 as class 2a or 2b, the seller
1.11 must disclose in writing to the buyer the status and location of all known drain tile on the
1.12 property by delivering to the buyer:

1.13 (1) a statement by the seller that the seller does not know of any drain tile on the property;
1.14 or

1.15 (2) a disclosure statement indicating the legal description and county and, to the extent
1.16 practicable, a map drawn from available information and accurate to scale identifying the
1.17 location of drain tile on the property, including tile diameter and all outlets and control
1.18 structures, and the drainage water flow path for the first mile downstream of the drain tile.

1.19 (b) At the time of closing the sale, the disclosure statement information, name and mailing
1.20 address of the buyer, and the quartile, section, township, and range in which drain tile is
1.21 located must be provided on a drain tile disclosure certificate signed by the seller or a person
1.22 authorized to act on behalf of the seller.

2.1 (c) A drain tile certificate need not be provided if the seller does not know of any drain  
2.2 tile on the property and the deed or other instrument of conveyance contains the statement:  
2.3 "The Seller certifies that the Seller does not know of any drain tile on the described real  
2.4 property."

2.5 (d) If a deed is given pursuant to a contract for deed, the drain tile disclosure certificate  
2.6 required by this subdivision must be signed by the buyer or a person authorized to act on  
2.7 behalf of the buyer. If the buyer knows of no drain tile on the property, a drain tile disclosure  
2.8 certificate is not required if the following statement appears on the deed, followed by the  
2.9 signature of the grantee or, if there is more than one grantee, the signature of at least one  
2.10 of the grantees: "The Grantee certifies that the Grantee does not know of any drain tile on  
2.11 the described real property." The statement and signature of the grantee may be on the front  
2.12 or back of the deed or on an attached sheet, and an acknowledgment of the statement by  
2.13 the grantee is not required for the deed to be recordable.

2.14 (e) If the seller fails to provide a required drain tile disclosure certificate, the buyer, or  
2.15 a person authorized to act on behalf of the buyer, may sign a drain tile disclosure certificate  
2.16 based on the information provided on the disclosure statement required by this section or  
2.17 based on other available information.

2.18 (f) A county recorder or registrar of titles may not record a deed or other instrument of  
2.19 conveyance dated after January 1, 2025, for which a certificate of value is required under  
2.20 section 272.115, or any deed or other instrument of conveyance dated after January 1, 2025,  
2.21 from a governmental body exempt from the payment of state deed tax, unless the deed or  
2.22 other instrument of conveyance contains the statement made in accordance with paragraph  
2.23 (c) or (d) or is accompanied by the drain tile disclosure certificate containing all the  
2.24 information required by paragraph (b) or (d).

2.25 (g) The county recorder or registrar of titles must not accept a certificate unless it contains  
2.26 all required information. The county recorder or registrar of titles must note on each deed  
2.27 or other instrument of conveyance accompanied by a drain tile disclosure certificate that  
2.28 the drain tile disclosure certificate was received. The notation must include the statement  
2.29 "No drain tile on property" if the disclosure certificate states that there is no drain tile on  
2.30 the property.

2.31 (h) The drain tile disclosure certificate must not be filed or recorded in the records  
2.32 maintained by the county recorder or registrar of titles. After noting "No drain tile on  
2.33 property" on the deed or other instrument of conveyance, the county recorder or registrar  
2.34 of titles must destroy or return to the buyer the drain tile disclosure certificate.

3.1 (i) The county recorder or registrar of titles must collect from the buyer or the person  
3.2 seeking to record a deed or other instrument of conveyance a fee of \$50 for receipt of a  
3.3 completed drain tile disclosure certificate. By the tenth day of each month, the county  
3.4 recorder or registrar of titles must transmit the drain tile disclosure certificates to the Board  
3.5 of Water and Soil Resources. By the tenth day after the end of each calendar quarter, the  
3.6 county recorder or registrar of titles must transmit to the Board of Water and Soil Resources  
3.7 \$42.50 of the fee for each drain disclosure certificate received during the quarter. The board  
3.8 must maintain the drain tile disclosure certificate for at least six years. The board may store  
3.9 the certificate as an electronic image. A copy of that image is as valid as the original.

3.10 (j) The Board of Water and Soil Resources, in consultation with county recorders, must  
3.11 prescribe the form for a drain tile disclosure certificate and provide drain tile disclosure  
3.12 certificate forms to county recorders, registrars of titles, and other interested persons.

3.13 (k) Failure to comply with a requirement of this section does not impair:

3.14 (1) the validity of a deed or other instrument of conveyance as between the parties to  
3.15 the deed or instrument or as to any other person who otherwise would be bound by the deed  
3.16 or instrument; or

3.17 (2) the record, as notice, of any deed or other instrument of conveyance accepted for  
3.18 filing or recording contrary to the provisions of this subdivision.

3.19 Subd. 3. **Liability for failure to disclose.** Unless the buyer and seller agree to the  
3.20 contrary, in writing, before the closing of the sale, a seller who fails to disclose the existence  
3.21 or known status of drain tile at the time of sale and knew or had reason to know of the  
3.22 existence or known status of the drain tile is liable to the buyer for costs incurred to repair  
3.23 the drain tile and reasonable attorney fees for collection of costs from the seller, if the action  
3.24 is commenced within six years after the date the buyer closed the purchase of the real  
3.25 property where the drain tile is located.