

SENATE

STATE OF MINNESOTA

EIGHTY-EIGHTH LEGISLATURE

S.F. No. 411

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DATE	D-PG	OFFICIAL STATUS
02/13/2013	213	Introduction and first reading Referred to Judiciary
04/02/2013	1531a 1668	Comm report: To pass as amended Second reading
05/19/2013	4973	General Orders: Stricken and returned to author See SF1607, Art.8, Sec.5-8

A bill for an act
relating to real property; creating a notice requirement for sellers in real estate
sales for contracts for deed; creating a civil action remedy for violations of the
notice requirements for contracts for deed; amending Minnesota Statutes 2012,
section 507.235, subdivision 2; proposing coding for new law in Minnesota
Statutes, chapter 559; repealing Minnesota Statutes 2012, section 507.235,
subdivision 4.

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

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

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

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

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

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

Subd. 2. **Business day.** "Business day" means any day other than a Saturday,
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 a seller
2.4 in four or more contracts for deed involving residential real property during the 12-month
2.5 period that precedes:

2.6 (1) the date on which the purchaser executes a purchase agreement under section
2.7 559.202; or

2.8 (2) if there is no purchase agreement, the date on which the purchaser executes a
2.9 contract for deed under section 559.202.

2.10 A contract for deed transaction that is exempt under section 559.202, subdivision 2, is a
2.11 contract for deed transaction for purposes of determining whether a seller is a multiple
2.12 seller.

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

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

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

2.21 Subd. 8. **Residential real property.** "Residential real property" means real property
2.22 consisting of one to four family dwelling units, one of which the purchaser intends to
2.23 occupy as the purchaser's principal place of residence. Residential real property does
2.24 not include property subject to a family farm security loan or a transaction subject to
2.25 sections 583.20 to 583.32.

2.26 Sec. 3. **[559.202] CONTRACTS FOR DEED INVOLVING RESIDENTIAL**
2.27 **PROPERTY.**

2.28 Subdivision 1. **Notice.** (a) In addition to the disclosures required under sections
2.29 513.52 to 513.60, a multiple seller must deliver the notice under subdivision 3 to a
2.30 prospective purchaser as provided under this subdivision.

2.31 (b) If there is a purchase agreement, the notice must be affixed to the front of
2.32 the purchase agreement. A contract for deed for which notice is required under this
2.33 subdivision may not be executed for five business days following the execution of the
2.34 purchase agreement and delivery of the notice and instructions for cancellation.

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

(d) The notice must be:

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

(2) signed and dated by the purchaser.

(e) If a dispute arises concerning whether or when the notice required by this subdivision was provided to the purchaser, there is a rebuttable presumption that the notice was not provided unless the original executed contract for deed contains the following statement, initialed by the purchaser: "By initialing here purchaser acknowledges receipt at least five business days before signing this contract for deed of the disclosure statement entitled "Important Information About Contracts for Deed" required by Minnesota Statutes, section 559.202, subdivision 3."

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

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

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

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

"IMPORTANT INFORMATION ABOUT CONTRACTS FOR DEED

Know What You Are Getting Into

(1) A contract for deed is a complex legal agreement. You are NOT a tenant. Mortgage foreclosure laws do not apply.

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

(3) You (seller must circle one):

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

(ii) DO DO NOT have to pay property taxes.

(iii) DO DO NOT have to make and pay for some or all of the repairs or maintenance, as described in the contract for deed.

(4) After some time, you may need to make a large lump sum payment (called a "balloon payment"). Know when it is due and how much it will be. You will probably need to get a new mortgage, another financial arrangement, or pay for the balance in cash at that time.

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

(6) Within four months of signing the contract for deed, you must "record" it in the office of the county recorder or registrar of titles in the county in which the property is located. If you do not, you could face a fine.

Key Things Highly Recommended Before You Sign

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

(2) Get an independent, professional appraisal of the property to find out how much it is worth.

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

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

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

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

If You Are Entering into a Purchase Agreement

(1) If you have not already signed the contract for deed, you can cancel the purchase agreement (and get all your money back) if you do so within five business days after getting this notice.

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

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

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

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

5.1 Subd. 5. Remedies for failure to timely deliver notices. (a) Notwithstanding any
5.2 contrary provision in the purchase agreement or the contract for deed, a purchaser has
5.3 a private right of action against a multiple seller who fails to timely deliver the notice
5.4 required under subdivision 1. The multiple seller is liable to the purchaser for: (1) the
5.5 greater of actual damages or statutory damages of \$2,500; and (2) reasonable attorney
5.6 fees and court costs.

5.7 (b) A multiple seller who knowingly fails to timely deliver the notice required
5.8 under subdivision 1 is liable to the purchaser for triple the actual or statutory damages
5.9 available under paragraph (a), whichever is greater, provided that the purchaser must elect
5.10 the remedy provided under either paragraph (a) or this paragraph and may not recover
5.11 under both paragraphs.

5.12 (c) The rights and remedies provided in this subdivision are cumulative to, and not
5.13 a limitation of, any other rights and remedies provided under law. An action brought
5.14 under this subdivision must be commenced within four years from the date of the alleged
5.15 violation.

5.16 Subd. 6. Effect of violation. A violation of this section has no effect on the validity
5.17 of the contract.

5.18 Subd. 7. Duty of multiple seller to account. Upon reasonable request by the
5.19 purchaser, and no more than once per every 12-month period, a multiple seller must provide
5.20 an accounting of all payments made pursuant to the contract for deed, the amount of
5.21 interest paid, and the amount remaining to satisfy the principal balance under the contract.

5.22 Subd. 8. No waiver. The provisions of this section may not be waived.

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

5.26 Sec. 4. REPEALER.

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

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

APPENDIX
Repealed Minnesota Statutes: S0411-1

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.