

**SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION**

S.F. No. 3974

(SENATE AUTHORS: UTKE)

DATE
03/14/2022

D-PG
5311

Introduction and first reading
Referred to Local Government Policy

OFFICIAL STATUS

1.1 A bill for an act

1.2 relating to local government; creating a cause of action for judicial boundary

1.3 determinations after the altering of a boundary line by a county; requiring every

1.4 county to assess, preserve, and restore United States public land survey monuments

1.5 by December 31, 2025; proposing coding for new law in Minnesota Statutes,

1.6 chapters 508; 559.

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

1.8 Section 1. **[508.672] DETERMINATION OF BOUNDARIES; ALTERATION BY**

1.9 **COUNTY.**

1.10 Subdivision 1. **Petition.** An owner of registered land who is aggrieved after the alteration

1.11 of a boundary line which was altered pursuant to a survey conducted by the county in which

1.12 the land is located and is adjacent to the land of the property owner may apply by a duly

1.13 verified petition to the court to have all or some of the boundary lines judicially determined.

1.14 An owner of unregistered land may apply by a duly verified petition to the court to have all

1.15 or some of the boundary lines of the unregistered parcel judicially determined under this

1.16 section, provided the relief requested affects one or more adjoining parcels of registered

1.17 land. The petition shall contain the full names and post office addresses of all owners of

1.18 lands adjoining the altered boundary line, the legal description of the adjoining lands which

1.19 are in any manner affected by the boundary determination, and information about the

1.20 alteration of the boundary line by the county. At the time of the filing of the petition with

1.21 the court administrator, a copy of the petition, duly certified by the court administrator, shall

1.22 be recorded with the registrar of titles and entered as a memorial on the petitioner's certificate

1.23 of title, if applicable, and on the certificates of title for any affected adjoining registered

1.24 lands, and recorded with the county recorder if the petitioner's land or any affected parcels

are unregistered lands, and entered in the tract index for the affected lands. When recorded or filed, the certified copy of the petition shall be notice forever to purchasers and encumbrancers of the pendency of the proceeding and of all matters referred to in the court files and records pertaining to the proceeding. The owner shall have the premises surveyed by a licensed land surveyor and shall file in the proceedings a plat of the survey showing the correct location of the boundary line or lines to be determined. There also shall be filed with the court administrator a memorandum abstract, satisfactory to the examiner, showing the record owners and encumbrancers of the adjoining lands which are in any manner affected by the boundary line determination. The petition shall be referred to the examiner of titles for examination and report in the manner provided for the reference of initial applications for registration. Notice of the proceeding shall be given to all interested persons and the county attorney by the service of a summons which shall be issued in the form and served in the manner as in initial applications.

Subd. 2. **Order.** Before the issuance of any final order determining the location of the owner's boundary lines, the court shall fix and establish the boundaries and direct the establishment of judicial landmarks in the manner provided by section 559.25. The final order shall make reference to the boundary lines that have been determined and to the location of the judicial landmarks that mark the boundary lines. The final order shall refer to the affected registered lands by certificate of title number and shall refer to the affected abstract lands by legal description. A certified copy of the final order shall be filed by the court administrator with the registrar of titles and county recorder, if applicable, and entered as a memorial on all affected certificates of title. The memorial shall state which of the boundary lines were determined in the district court case and whether the boundary line was altered by the county in error. Upon the filing of the final order, the registrar shall omit from future certificates the memorial of the petition for registration of the boundary lines. The county recorder shall enter the certified copy of the final order in the tract index for the affected abstract land. Recording fees under this section shall be paid by the county, if the final order determined that the county altered the boundary line in error, or the petitioner if the county correctly altered the boundary line.

Subd. 3. **Plat of survey to be filed.** If boundaries on unregistered land are affected, the court administrator shall file with the registrar of titles and the county recorder a certified copy of the plat of the survey which contains a certification by a licensed land surveyor that the boundaries as registered have been marked by judicial landmarks set pursuant to the order of the court. The registrar of titles shall enter the certified copy of the plat of the survey

as a memorial upon the certificate of title. The county recorder shall enter the certified copy of the plat of survey in the tract index for the affected unregistered lands.

Sec. 2. [559.231] ACTION TO DETERMINE BOUNDARY LINES; ALTERATION BY COUNTY.

Any person owning land or any interest therein who is aggrieved after the alteration of a boundary line which was altered pursuant to a survey conducted by the county in which the land is located and is adjacent to the land of the property owner, may bring action against the county to have the boundary line established. If an altered boundary line is in common with registered land, the determination of the boundary must be made pursuant to section 508.672. The court shall determine any adverse claims regarding any portion of the land involved which it may be necessary to determine for a complete settlement of the boundary lines. If the court determines that the boundary line was altered by the county in error, the county is liable for all court costs and attorney fees. The decree of the court shall be filed with the court administrator and a certified copy of the decree shall be recorded in the office of the county recorder. The decree shall not be accepted for recording or filing until the decree is presented to the county auditor who shall enter the decree in the transfer record and note upon the instrument over the auditor's official signature the following words: "ENTERED IN THE TRANSFER RECORD."

EFFECTIVE DATE. This section is effective August 1, 2022, and applies to actions pending on or commenced on or after that date.

Sec. 3. ASSESSMENT AND PRESERVATION OF MONUMENTS REQUIRED.

On or before December 31, 2024, every county must conduct a comprehensive assessment of monuments established by the United States in the public land survey that exist within the boundaries of the county. On or before December 31, 2025, a county must preserve and restore all monuments that are discovered to have been destroyed or are becoming obscure in accordance with the requirements and procedures of Minnesota Statutes, sections 381.12 and 389.04. A county may not levy a tax under Minnesota Statutes, section 381.12, subdivision 2, in excess of \$..... for the purpose of compliance with this section.

EFFECTIVE DATE. This section is effective for taxes payable in 2023 and thereafter.