

**SENATE**  
**STATE OF MINNESOTA**  
**EIGHTY-NINTH SESSION**

**S.F. No. 1448**

(SENATE AUTHORS: HAWJ)

DATE	D-PG	OFFICIAL STATUS
03/09/2015	597	Introduction and first reading Referred to Environment and Energy

A bill for an act

1.1 relating to environment; establishing Minnesota Environmental Contamination  
 1.2 Awareness Act; amending Minnesota Statutes 2014, section 115C.06, by adding a  
 1.3 subdivision; proposing coding for new law in Minnesota Statutes, chapter 115B.  
 1.4

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

1.6 Section 1. **[115B.60] ENVIRONMENTAL CONTAMINATION AWARENESS.**

1.7 Subdivision 1. **Citation.** This section may be cited as the Minnesota Environmental  
 1.8 Contamination Awareness Act.

1.9 Subd. 2. **Definitions.** For purposes of this section, the following terms have the  
 1.10 meanings given them:

1.11 (1) "agency" means the Minnesota Pollution Control Agency;

1.12 (2) "buyer" means a person negotiating or offering to acquire, for value, legal or  
 1.13 equitable title or the right to acquire legal or equitable title to real property;

1.14 (3) "contaminant testing" means measurement and laboratory analysis of an  
 1.15 environmental contaminant using an established laboratory analytical method;

1.16 (4) "environmental contaminant" means a hazardous substance as defined in  
 1.17 section 115B.02, subdivision 8, pollutant or contaminant as defined in section 115B.02,  
 1.18 subdivision 13, or petroleum as defined in section 115C.02, subdivision 10; and

1.19 (5) "seller" means a person negotiating or offering to sell for value legal or equitable  
 1.20 title to real property.

1.21 Subd. 3. **Required disclosures.** (a) Before signing an agreement to sell or transfer  
 1.22 real property, the seller must provide a written disclosure to the buyer notifying the  
 1.23 buyer of any information the seller has regarding a vapor intrusion mitigation system  
 1.24 installed on the property that must be maintained to protect human health and prevent

2.1 environmental contaminants from entering air inside a building. The disclosure must  
2.2 include data pertaining to contaminant testing at the property and information regarding  
2.3 the vapor intrusion mitigation system, including the system description and documentation  
2.4 of the system.

2.5 (b) Before signing an agreement to sell or transfer real property, the seller must  
2.6 provide a written disclosure to the buyer notifying the buyer of any information the seller  
2.7 has regarding a drinking water treatment system installed on the property and of any  
2.8 operation and maintenance of the drinking water treatment system necessary to protect  
2.9 human health and remove environmental contaminants from the drinking water system.  
2.10 The disclosure must include data pertaining to contaminant testing at the property and  
2.11 information regarding the drinking water system, including the system description and  
2.12 documentation of the system.

2.13 (c) Before signing an agreement to sell or transfer real property, the seller must  
2.14 provide a written disclosure to the buyer notifying the buyer of any information the seller  
2.15 has regarding:

2.16 (1) United States Environmental Protection Agency, Minnesota Pollution Control  
2.17 Agency, Minnesota Department of Agriculture, or Minnesota Department of Health  
2.18 records, reports, electronic or written correspondence, or other data requesting access  
2.19 to the property to:

2.20 (i) conduct contaminant testing;

2.21 (ii) install a vapor intrusion mitigation system;

2.22 (iii) install a treatment system to remove environmental contaminants from drinking  
2.23 water; or

2.24 (iv) conduct response actions; and

2.25 (2) failure of testing, installation, or response actions under clause (1) to be completed.

2.26 (d) The seller's disclosure requirements in this subdivision do not apply to:

2.27 (1) a gratuitous transfer;

2.28 (2) a transfer made pursuant to a court order;

2.29 (3) a transfer to a government or governmental agency;

2.30 (4) a transfer by foreclosure or deed in lieu of foreclosure;

2.31 (5) a transfer to heirs or devisees of a decedent;

2.32 (6) a transfer from a cotenant to one or more other cotenants;

2.33 (7) a transfer made to a spouse, parent, grandparent, child, or grandchild of the seller;

2.34 (8) a transfer between spouses resulting from a decree of marriage dissolution or  
2.35 from a property settlement agreement incidental to that decree;

2.36 (9) an option to purchase a unit in a common interest community, until exercised;

3.1 (10) a transfer to a person who controls or is controlled by the grantor as those terms  
3.2 are defined with respect to a declarant under section 515B.1-103, clause (2);

3.3 (11) a transfer to a tenant who is in possession of the real property; or

3.4 (12) a transfer of special declarant rights under section 515B.3-104.

3.5 (e) A seller may provide the written disclosure required under this subdivision to a  
3.6 real estate licensee representing or assisting a prospective buyer. The written disclosure  
3.7 provided to the real estate licensee representing or assisting a prospective buyer is  
3.8 considered to have been provided to the prospective buyer. If the written disclosure is  
3.9 provided to the real estate licensee representing or assisting the prospective buyer, the real  
3.10 estate licensee must provide a copy to the prospective buyer.

3.11 (f) A seller is not required to provide a written disclosure if the seller receives written  
3.12 notification from the agency stating that the agency has determined a vapor intrusion  
3.13 mitigation system or drinking water treatment system must no longer be maintained to  
3.14 protect human health, prevent environmental contaminants from entering air inside a  
3.15 building, or remove environmental contaminants from the drinking water system.

3.16 Subd. 4. **Liability; transfer not invalidated.** (a) A seller who fails to make a  
3.17 disclosure required under subdivision 3 and who is aware of material facts pertaining to  
3.18 items to be disclosed under subdivision 3 is liable to the buyer.

3.19 (b) A buyer who is injured by a violation of this section may bring a civil action and  
3.20 recover damages and receive other equitable relief as determined by the court. An action  
3.21 under this subdivision must be commenced within two years after the date on which the  
3.22 buyer closed the purchase or transfer of the real property.

3.23 (c) This section does not invalidate a transfer solely because of the failure of any  
3.24 person to comply with this section. This section does not prevent a court from ordering a  
3.25 rescission of the transfer.

3.26 Subd. 5. **Agency recording of affidavit.** (a) The agency must record with the  
3.27 county recorder or registrar of titles of the county in which a property is located an  
3.28 affidavit containing a legal description of the property that discloses:

3.29 (1) United States Environmental Protection Agency, Minnesota Pollution Control  
3.30 Agency, Minnesota Department of Agriculture, or Minnesota Department of Health  
3.31 records, reports, electronic or written correspondence, or other data requesting access  
3.32 to the property to:

3.33 (i) conduct contaminant testing;

3.34 (ii) install a vapor intrusion mitigation system;

3.35 (iii) install a treatment system to remove environmental contaminants from drinking  
3.36 water; or

4.1 (iv) conduct response actions; and

4.2 (2) failure of such testing, installation, or response actions to be completed.

4.3 (b) The county recorder or registrar of titles must record an affidavit presented  
4.4 according to paragraph (a). The affidavit must be recorded in a manner that ensures  
4.5 disclosure of the affidavit in the ordinary course of a title search of the subject property.

4.6 (c) If an affidavit has been recorded under this subdivision and the agency issues a  
4.7 written determination that a vapor intrusion mitigation system or drinking water treatment  
4.8 system must no longer be maintained to protect human health, prevent environmental  
4.9 contaminants from entering air inside a building, or remove environmental contaminants  
4.10 from the drinking water system, the owner or agency may file with the county recorder or  
4.11 registrar of titles an affidavit stating the name of the owner, the legal description of the  
4.12 property, the place and date of filing and document number of the affidavit filed under  
4.13 paragraph (a), and the approximate date the agency determined the vapor mitigation  
4.14 system or drinking water treatment system no longer needed to be maintained. Upon  
4.15 filing the affidavit described in this paragraph, the affidavit and the affidavit filed under  
4.16 paragraph (a), together with the information set forth in the affidavits, cease to constitute  
4.17 either actual or constructive notice.

4.18 **EFFECTIVE DATE.** Subdivision 5 of this section is effective August 1, 2015.  
4.19 Subdivisions 1 to 4 are effective January 1, 2016, and apply to agreements to sell or  
4.20 transfer real property executed on or after that date.

4.21 Sec. 2. Minnesota Statutes 2014, section 115C.06, is amended by adding a subdivision  
4.22 to read:

4.23 Subd. 3. **Environmental contamination awareness.** Disclosure of environmental  
4.24 contaminants, as defined under section 115B.60, must be provided according to section  
4.25 115B.60.

4.26 **EFFECTIVE DATE.** This section is effective January 1, 2016.