

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

S.F. No. 4479

(SENATE AUTHORS: DRAHEIM)

DATE
04/16/2020

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OFFICIAL STATUS
Introduction and first reading
Referred to Health and Human Services Finance and Policy

1.1 A bill for an act
1.2 relating to health; modifying well disclosure certificates required for property
1.3 sales; appropriating money; amending Minnesota Statutes 2018, section 103I.235,
1.4 subdivision 1.

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

1.6 Section 1. Minnesota Statutes 2018, section 103I.235, subdivision 1, is amended to read:

1.7 Subdivision 1. **Disclosure of wells to buyer.** (a) Before signing an agreement to sell or
1.8 transfer real property, the seller must disclose in writing to the buyer information about the
1.9 status and location of all known wells on the property, by delivering to the buyer either a
1.10 statement by the seller that the seller does not know of any wells on the property, or a
1.11 disclosure statement indicating the legal description and county, and a map drawn from
1.12 available information showing the location of each well to the extent practicable. In the
1.13 disclosure statement, the seller must indicate, for each well, whether the well is in use, not
1.14 in use, or sealed.

1.15 (b) At the time of closing of the sale, the disclosure statement information, name and
1.16 mailing address of the buyer, and the quartile, section, township, and range ~~in which~~ or the
1.17 lot, block, and plot name where each well is located must be provided on a well disclosure
1.18 certificate signed by the seller or a person authorized to act on behalf of the seller. The well
1.19 disclosure certificate must be submitted by the seller or a person authorized to act on behalf
1.20 of the seller to the commissioner, along with payment of a \$50 nonrefundable fee. Upon
1.21 receipt of the well disclosure certificate and required fee, the commissioner shall provide
1.22 a well disclosure certificate number to the person submitting the certificate to be placed on
1.23 the deed or other instrument of conveyance indicating that a well disclosure certificate was

2.1 submitted. The commissioner shall maintain the well disclosure certificate for at least six
2.2 years, and may store the certificate as an electronic image.

2.3 (c) A well disclosure certificate ~~need not~~ is not required to be provided if the seller does
2.4 not know of any wells on the property and the deed or other instrument of conveyance
2.5 contains the statement: "The Seller certifies that the Seller does not know of any wells on
2.6 the described real property."

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

2.16 (e) This subdivision does not apply to the sale, exchange, or transfer of real property:

2.17 (1) that consists solely of a sale or transfer of severed mineral interests; or

2.18 (2) that consists of an individual condominium unit as described in chapters 515 and
2.19 515B.

2.20 (f) For an area owned in common under chapter 515 or 515B the association or other
2.21 responsible person must report to the commissioner ~~by July 1, 1992,~~ the location and status
2.22 of all wells in the common area. The association or other responsible person must notify
2.23 the commissioner within 30 days of any change in the reported status of wells.

2.24 (g) If the seller fails to ~~provide~~ submit a required well disclosure certificate to the
2.25 commissioner, the buyer, or a person authorized to act on behalf of the buyer, may sign a
2.26 well disclosure certificate based on the information provided on the disclosure statement
2.27 required by this section or based on other available information and submit the certificate
2.28 to the commissioner in accordance with paragraph (b), and the commissioner shall provide
2.29 the buyer or the person authorized to act on behalf of the buyer with a well disclosure
2.30 certificate number.

2.31 (h) A county recorder or registrar of titles ~~may~~ shall not record a deed or other instrument
2.32 of conveyance ~~dated after October 31, 1990,~~ for which a certificate of value is required
2.33 under section 272.115, or any deed or other instrument of conveyance ~~dated after October~~

3.1 ~~31, 1990~~, from a governmental body exempt from the payment of state deed tax, unless the
3.2 deed or other instrument of conveyance contains the statement made in accordance with
3.3 paragraph (c) or (d) or is accompanied by the well disclosure certificate ~~containing all the~~
3.4 ~~information required by paragraph (b) or (d). The county recorder or registrar of titles must~~
3.5 ~~not accept a certificate unless it contains all the required information~~ number obtained from
3.6 the commissioner in accordance with paragraph (b). The county recorder or registrar of
3.7 titles shall note on each deed or other instrument of conveyance ~~accompanied by a~~ the well
3.8 disclosure certificate ~~that the well disclosure certificate was received. The notation must~~
3.9 ~~include the statement "No wells on property" if the disclosure certificate states there are no~~
3.10 ~~wells on the property. The~~ number indicating that the well disclosure certificate was received
3.11 by the commissioner. No well disclosure certificate certificates shall not be filed or recorded
3.12 ~~in the records maintained by~~ submitted to the county recorder or registrar of titles. After
3.13 noting "No wells on property" on the deed or other instrument of conveyance, the county
3.14 recorder or registrar of titles shall destroy or return to the buyer the well disclosure certificate.
3.15 The county recorder or registrar of titles shall collect from the buyer or the person seeking
3.16 to record a deed or other instrument of conveyance, a fee of \$50 for receipt of a completed
3.17 well disclosure certificate. By the tenth day of each month, the county recorder or registrar
3.18 of titles shall transmit the well disclosure certificates to the commissioner of health. By the
3.19 tenth day after the end of each calendar quarter, the county recorder or registrar of titles
3.20 shall transmit to the commissioner of health \$42.50 of the fee for each well disclosure
3.21 certificate received during the quarter. The commissioner shall maintain the well disclosure
3.22 certificate for at least six years. The commissioner may store the certificate as an electronic
3.23 image. A copy of that image shall be as valid as the original. The county recorder or registrar
3.24 of titles is not required to verify the information disclosed on the well disclosure certificate,
3.25 except for the buyer's name.

3.26 (i) ~~No new well disclosure certificate is required under this subdivision if the buyer or~~
3.27 ~~seller, or a person authorized to act on behalf of the buyer or seller, certifies on the deed or~~
3.28 ~~other instrument of conveyance that the status and number of wells on the property have~~
3.29 ~~not changed since the last previously filed well disclosure certificate. The following~~
3.30 ~~statement, if followed by the signature of the person making the statement, is sufficient to~~
3.31 ~~comply with the certification requirement of this paragraph: "I am familiar with the property~~
3.32 ~~described in this instrument and I certify that the status and number of wells on the described~~
3.33 ~~real property have not changed since the last previously filed well disclosure certificate."~~
3.34 ~~The certification and signature may be on the front or back of the deed or on an attached~~
3.35 ~~sheet and an acknowledgment of the statement is not required for the deed or other instrument~~
3.36 ~~of conveyance to be recordable.~~

4.1 ~~(i)~~ (i) The commissioner in consultation with county recorders shall prescribe the form
 4.2 for a well disclosure certificate and provide well disclosure certificate forms to ~~county~~
 4.3 ~~recorders and registrars of titles and other~~ interested persons. The commissioner shall
 4.4 implement a system to permit well disclosure certificates to be submitted electronically. By
 4.5 January 1, 2022, the commissioner shall establish a system to provide a well disclosure
 4.6 certificate number to a seller upon electronically submitting a well disclosure certificate to
 4.7 the commissioner in accordance with paragraph (b), and a searchable database for submitted
 4.8 well disclosure certificates.

4.9 ~~(j)~~ (j) Failure to comply with a requirement of this subdivision does not impair:

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

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

4.15 **EFFECTIVE DATE.** This section is effective January 1, 2022, and applies to documents
 4.16 submitted for recording to the county recorder or local registrar on or after that date.

4.17 Sec. 2. **APPROPRIATION.**

4.18 \$..... in fiscal year 2021 is appropriated from the general fund to the commissioner of
 4.19 health to implement electronic submission of well disclosure certificates, to provide well
 4.20 disclosure certificate numbers, and to establish a database as required under Minnesota
 4.21 Statutes, section 103I.235, subdivision 1, paragraph (i). This is a onetime appropriation.