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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE NO. **439**

January 29, 2007

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The bill was read for the first time and referred to the Committee on Commerce and Labor

1.1 A bill for an act
1.2 relating to real estate; requiring sellers of residential lake property and their real
1.3 estate agents to disclose and provide to buyers known existing land surveys;
1.4 amending Minnesota Statutes 2006, sections 82.22, subdivision 8; 513.54;
1.5 513.55, subdivision 1; 513.57, subdivision 2.

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

1.7 Section 1. Minnesota Statutes 2006, section 82.22, subdivision 8, is amended to read:

1.8 Subd. 8. **Material facts.** (a) Licensees shall disclose to any prospective purchaser:

1.9 (1) all material facts of which the licensees are aware, which could adversely and
1.10 significantly affect an ordinary purchaser's use or enjoyment of the property, or any
1.11 intended use of the property of which the licensees are aware; and

1.12 (2) if the property adjoins a lake or includes access to a lake by easement or
1.13 otherwise, the existence of a plat of a survey of the property, which plat is owned by or
1.14 under control of the seller to the extent that the existence of the plat is known to the
1.15 licensee.

1.16 (b) It is not a material fact relating to real property offered for sale the fact or
1.17 suspicion that the property:

1.18 (1) is or was occupied by an owner or occupant who is or was suspected
1.19 to be infected with human immunodeficiency virus or diagnosed with acquired
1.20 immunodeficiency syndrome;

1.21 (2) was the site of a suicide, accidental death, natural death, or perceived paranormal
1.22 activity; or

1.23 (3) is located in a neighborhood containing any adult family home, community-based
1.24 residential facility, or nursing home.

2.1 (c) A licensee or employee of the licensee has no duty to disclose information
 2.2 regarding an offender who is required to register under section 243.166, or about whom
 2.3 notification is made under that section, if the broker or salesperson, in a timely manner,
 2.4 provides a written notice that information about the predatory offender registry and
 2.5 persons registered with the registry may be obtained by contacting local law enforcement
 2.6 where the property is located or the Department of Corrections.

2.7 (d) A licensee is not required to disclose, except as otherwise provided in paragraph
 2.8 (e), information relating to the physical condition of the property or any other information
 2.9 relating to the real estate transaction, if a written report that discloses the information has
 2.10 been prepared by a qualified third party and provided to the person. For the purposes of
 2.11 this paragraph, "qualified third party" means a federal, state, or local governmental agency,
 2.12 or any person whom the broker, salesperson, or a party to the real estate transaction
 2.13 reasonably believes has the expertise necessary to meet the industry standards of practice
 2.14 for the type of inspection or investigation that has been conducted by the third party
 2.15 in order to prepare the written report and who is acceptable to the person to whom the
 2.16 disclosure is being made.

2.17 (e) A licensee shall disclose to the parties to a real estate transaction any facts known
 2.18 by the broker or salesperson that contradict any information included in a written report, if
 2.19 a copy of the report is provided to the licensee, described in paragraph (d).

2.20 (f) The limitation on disclosures set forth in paragraphs (b) and (c) shall modify any
 2.21 common law duties with respect to disclosure of material facts.

2.22 **EFFECTIVE DATE.** This section is effective January 1, 2008, and applies to
 2.23 purchase agreements signed by the seller on or after that day.

2.24 Sec. 2. Minnesota Statutes 2006, section 513.54, is amended to read:

2.25 **513.54 EXCEPTIONS.**

2.26 The seller disclosure requirements in sections 513.52 to 513.60 do not apply to
 2.27 any of the following:

- 2.28 (1) real property that is not residential real property;
- 2.29 (2) a gratuitous transfer;
- 2.30 (3) a transfer pursuant to a court order;
- 2.31 (4) a transfer to a government or governmental agency;
- 2.32 (5) a transfer by foreclosure or deed in lieu of foreclosure;
- 2.33 (6) a transfer to heirs or devisees of a decedent;
- 2.34 (7) a transfer from a cotenant to one or more other cotenants;

- 3.1 (8) a transfer made to a spouse, parent, grandparent, child, or grandchild of the seller;
- 3.2 (9) a transfer between spouses resulting from a decree of marriage dissolution or
- 3.3 from a property settlement agreement incidental to that decree;
- 3.4 (10) a transfer of newly constructed residential property that has not been inhabited,
- 3.5 except with respect to the survey disclosure requirement under section 513.55, subdivision
- 3.6 1, paragraph (a), clause (2);
- 3.7 (11) an option to purchase a unit in a common interest community, until exercised;
- 3.8 (12) a transfer to a person who controls or is controlled by the grantor as those terms
- 3.9 are defined with respect to a declarant under section 515B.1-103, clause (2);
- 3.10 (13) a transfer to a tenant who is in possession of the residential real property, except
- 3.11 with respect to the survey disclosure requirement under section 513.55, subdivision 1,
- 3.12 paragraph (a), clause (2); or
- 3.13 (14) a transfer of special declarant rights under section 515B.3-104.

3.14 **EFFECTIVE DATE.** This section is effective January 1, 2008, and applies to

3.15 agreements to sell or transfer residential real estate signed by the seller on or after that day.

3.16 Sec. 3. Minnesota Statutes 2006, section 513.55, subdivision 1, is amended to read:

3.17 Subdivision 1. **Contents.** (a) Before signing an agreement to sell or transfer

3.18 residential real property, the seller shall make a written disclosure to the prospective

3.19 buyer. The disclosure must include:

3.20 (1) all material facts of which the seller is aware that could adversely and

3.21 significantly affect:

3.22 ~~(1)(i)~~ (i) an ordinary buyer's use and enjoyment of the property; or

3.23 ~~(2)(ii)~~ (ii) any intended use of the property of which the seller is aware; or

3.24 (2) if the property adjoins a lake or includes access to a lake by easement or

3.25 otherwise, the existence of a plat of a survey of the property, which plat is owned by or

3.26 under control of the seller.

3.27 (b) The disclosure must be made in good faith and based upon the best of the seller's

3.28 knowledge at the time of the disclosure.

3.29 (c) If the seller discloses the existence of a plat of a survey under paragraph (a),

3.30 clause (2), or if the seller's real estate licensee has made that disclosure under section

3.31 82.22, subdivision 8, the seller shall provide the plat, or a complete copy of it, to the buyer

3.32 within five business days after the seller signs the purchase agreement. The plat or the

3.33 copy remains property of the seller until the sale or transfer is completed.

4.1 **EFFECTIVE DATE.** This section is effective January 1, 2008, and applies to
 4.2 agreements to sell or transfer residential real estate signed by the seller on or after that day.

4.3 Sec. 4. Minnesota Statutes 2006, section 513.57, subdivision 2, is amended to read:

4.4 Subd. 2. **Liability.** A seller who fails to make a disclosure as required by sections
 4.5 513.52 to 513.60 and was aware of material facts pertaining to the real property or of the
 4.6 existence of a plat of a survey under section 513.55, subdivision 1, paragraph (a), clause
 4.7 (2), is liable to the prospective buyer. A person injured by a violation of this section may
 4.8 bring a civil action and recover damages and receive other equitable relief as determined
 4.9 by the court. An action under this subdivision must be commenced within two years after
 4.10 the date on which the prospective buyer closed the purchase or transfer of the real property.

4.11 **EFFECTIVE DATE.** This section is effective January 1, 2008, and applies to
 4.12 agreements to sell or transfer residential real estate signed by the seller on or after that day.