

JAN 24 2001

Agriculture

HOUSE FILE

84

BY RAYHONS, MERTZ, and KLEMME

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the drainage of land involving improvements.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 84

1 Section 1. Section 468.112, Code 2001, is amended to read
2 as follows:

3 468.112 CONSTRUCTION WHEN RAILROAD COMPANY REFUSES.

4 If a railroad company does not comply with a notice
5 provided in section 468.109, the board shall provide for the
6 construction of the improvement under the supervision of the
7 engineer in charge of the improvement. The railroad company
8 shall be liable for the cost of the construction which shall
9 be collected by the county on behalf of the district in any
10 court having jurisdiction. The court ~~may~~ shall award a
11 prevailing county reasonable attorney fees incurred by the
12 county, to be paid by the railroad company and taxed as part
13 of the costs of the action.

14 Sec. 2. Section 468.621, Code 2001, is amended to read as
15 follows:

16 468 621 DRAINAGE IN COURSE OF NATURAL DRAINAGE --
17 RECONSTRUCTION -- DAMAGES.

18 ~~Owners~~ The owner of land may drain the land in the general
19 course of natural drainage by constructing or reconstructing
20 open or covered drains, and discharging the drains in any
21 natural watercourse or depression so the water will be carried
22 into some other natural watercourse, ~~and-if.~~ If the drainage
23 is wholly upon the owner's land the owner is not liable in
24 damages for the drainage ~~unless-it-increases-the-quantity-of~~
25 ~~water-or-changes-the-manner-of-discharge-on-the-land-of~~
26 another. An owner in constructing a replacement drain, wholly
27 on the owner's land, and in the exercise of due care, is not
28 liable in damages to another person if a previously
29 constructed drain on the owner's own land is rendered
30 inoperative or less efficient by the new drain, unless in
31 violation of the terms of a written contract. This section
32 does not affect the rights or liabilities of proprietors in
33 respect to running streams.

34 EXPLANATION

35 This bill amends several sections providing for drainage on

1 land, involving improvements under Code chapter 468.

2 The bill amends Code section 468.112 providing that a board
3 of supervisors may bring a legal action against a railroad
4 company to pay for improvements across a railroad right-of-
5 way. In 1999, the general assembly enacted House File 343
6 (1999 Iowa Acts, chapter 184) which amended section 468.112 to
7 provide that a court may award a prevailing county reasonable
8 attorney fees incurred by the county to be paid by the
9 railroad company. This bill amends the section to provide for
10 the mandatory payment of the fees.

11 The bill also amends Code section 468.621 which provides
12 that a landowner may drain land in the general course of
13 natural drainage by constructing or reconstructing open or
14 covered drains. The section provides that if the drainage
15 occurs wholly upon the owner's land, the owner is not liable
16 for damages claimed to result from the drainage. The section
17 also currently provides one exception: the owner may be
18 liable if the construction or reconstruction changes the
19 quantity of water or changes the manner of discharge onto the
20 land of another person. This bill eliminates that exception.

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