

Sec. 9. REPEALER.

Laws 1978, chapter 677, is repealed.

Sec. 10. EFFECTIVE DATE.

Section 1 is effective on approval by the Vadnais Heights city council and compliance with Minnesota Statutes, section 645.021. Section 2 is effective upon approval of the county board of St. Louis county and compliance with Minnesota Statutes, section 645.021. Section 3 is effective upon approval of the Little Falls city council and compliance with Minnesota Statutes, section 645.021. Section 4 is effective upon approval of the county board of Crow Wing county and compliance with Minnesota Statutes, section 645.021. Sections 5 and 8 are effective on approval by the Rochester city council and compliance with Minnesota Statutes, section 645.021. Section 6 is effective upon approval by the board of the Lake Minnetonka conservation district and compliance with Minnesota Statutes, section 645.021. Section 7 is effective upon approval by the Pope county board. Section 8 is effective on approval by the Sibley county board and compliance with Minnesota Statutes, section 645.021.

Approved March 25, 1986

CHAPTER 438—S.F.No. 1930

An act relating to real estate; providing for cancellation of real estate contract depending upon when contract was executed; providing for determination of purchase price; appropriating money; amending Minnesota Statutes 1984, section 559.21, by adding subdivisions; and Minnesota Statutes 1985 Supplement, section 559.21, subdivisions 2a, 3, 4, and 6.

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

Section 1. Minnesota Statutes 1984, section 559.21, is amended by adding a subdivision to read:

Subd. 1b. TERMINATION NOTICE FOR CONTRACT EXECUTED BEFORE AUGUST 2, 1976. If a default occurs in the conditions of a contract for the conveyance of real estate or an interest in real estate executed on or prior to August 1, 1976, that gives the seller a right to terminate it, the seller may terminate the contract by serving upon the purchaser or the purchaser's personal representatives or assigns, within or outside the state, a notice specifying the conditions in which default has been made. The notice must state that the contract will terminate 30 days after the service of the notice, unless prior to the termination date the purchaser:

(1) complies with the conditions in default;

(2) pays the costs of service of the notice, including the reasonable costs of service by sheriff, public officer, or private process server; except payment of costs of service is not required unless the seller notifies the purchaser of the

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actual costs of service by certified mail to the purchaser's last known address at least ten days prior to the date of termination; and

(3) pays an amount to apply on attorneys' fees actually expended or incurred, of \$50 if the amount in default is less than \$500, and of \$100 if the amount in default is \$500 or more; except no amount is required to be paid for attorneys' fees unless some part of the conditions of default has existed for at least 45 days prior to the date of service of the notice.

Sec. 2. Minnesota Statutes 1984, section 559.21, is amended by adding a subdivision to read:

Subd. 1c. TERMINATION NOTICE FOR CONTRACT EXECUTED BEFORE MAY 1, 1980. If a default occurs in the conditions of a contract for the conveyance of real estate or an interest in real estate executed after August 1, 1976, and prior to May 1, 1980, that gives the seller a right to terminate it, the seller may terminate the contract by serving upon the purchaser or the purchaser's personal representatives or assigns, within or outside the state, a notice specifying the conditions in which default has been made. The notice must state that the contract will terminate 30 days after the service of the notice if the purchaser has paid less than 30 percent of the purchase price, 45 days after service of the notice if the purchaser has paid 30 percent or more of the purchase price but less than 50 percent, or 60 days after service of the notice if the purchaser has paid 50 percent or more of the purchase price; unless prior to the termination date the purchaser:

(1) complies with the conditions in default;

(2) pays the costs of service of the notice, including the reasonable costs of service by sheriff, public officer, or private process server; except payment of costs of service is not required unless the seller notifies the purchaser of the actual costs of service by certified mail to the purchaser's last known address at least ten days prior to the date of termination; and

(3) pays an amount to apply on attorneys' fees actually expended or incurred, of \$75 if the amount in default is less than \$750, and of \$200 if the amount in default is \$750 or more; except no amount is required to be paid for attorneys' fees unless some part of the conditions of default has existed for at least 45 days prior to the date of service of the notice.

Sec 3. Minnesota Statutes 1984, section 559.21, is amended by adding a subdivision to read:

Subd. 1d. TERMINATION NOTICE FOR CONTRACT EXECUTED BEFORE AUGUST 1, 1985. If a default occurs in the conditions of a contract for the conveyance of real estate or an interest in real estate executed on or after May 1, 1980 and prior to August 1, 1985, that gives the seller a right to terminate it, the seller may terminate the contract by serving upon the purchaser or the purchaser's personal representatives or assigns, within or outside the state, a notice specifying the conditions in which default has been made. The

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notice must state that the contract will terminate 30 days after the service of the notice if the purchaser has paid less than ten percent of the purchase price, 60 days after service of the notice if the purchaser has paid 10 percent or more of the purchase price but less than 25 percent, or 90 days after service of the notice if the purchaser has paid 25 percent or more of the purchase price; unless prior to the termination date the purchaser:

- (1) complies with the conditions in default;
- (2) makes all payments due and owing to the seller under the contract through the date that payment is made;
- (3) pays the costs of service of the notice, including the reasonable costs of service by sheriff, public officer, or private process server; except payment of costs of service is not required unless the seller notifies the purchaser of the actual costs of service by certified mail to the purchaser's last known address at least ten days prior to the date of termination; and
- (4) pays an amount to apply on attorneys' fees actually expended or incurred, of \$125 if the amount in default is less than \$750, and of \$250 if the amount in default is \$750 or more; except no amount is required to be paid for attorneys' fees unless some part of the conditions of default has existed for at least 45 days prior to the date of service of the notice.

Sec. 4. Minnesota Statutes 1984, section 559.21, is amended by adding a subdivision to read:

Subd. 1e. DETERMINATION OF PURCHASE PRICE. For purposes of determining the purchase price and the amount of the purchase price paid on contracts executed prior to August 1, 1985:

(a) The purchase price is the sale price under the contract alleged to be in default, including the initial down payment. Mortgages, prior contracts for deed, special assessments, delinquent real estate taxes, or other obligations or encumbrances assumed by the purchaser are excluded in determining the purchase price.

(b) The amount paid by the purchaser is the total of payments of principal made under the contract alleged to be in default, including the initial down payment. Interest payments and payments made under mortgages, prior contracts for deed, special assessments, delinquent real estate taxes, or other obligations or encumbrances assumed by the purchaser are excluded in determining the amount paid by the purchaser.

Sec. 5. Minnesota Statutes 1985 Supplement, section 559.21, subdivision 2a, is amended to read:

Subd. 2a. TERMINATION NOTICE FOR CONTRACT EXECUTED AFTER JULY 31, 1985. (a) If a default occurs in the conditions of a contract for the conveyance of real estate or an interest in the real estate executed on or after

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August 1, 1985, that gives the seller a right to terminate it, the seller may terminate the contract by serving upon the purchaser or the purchaser's personal representatives or assigns, within or outside of the state, a notice specifying the conditions in which default has been made. The notice must state that the contract will terminate 60 days, or a shorter period allowed in subdivision 4, after the service of the notice, unless prior to the termination date the purchaser:

- (1) complies with the conditions in default;
- (2) makes all payments due and owing to the seller under the contract through the date that payment is made;
- (3) pays the costs of service of the notice, ~~which include~~ including the reasonable costs of service by sheriff, public officer, or private process server; ~~except as provided in paragraph (e) payment of costs of service is not required unless the seller notifies the purchaser of the actual costs of service by certified mail to the purchaser's last known address at least ten days prior to the date of termination;~~
- (4) pays two percent of any amount in default at the time of service, not including the final balloon payment, any taxes, assessments, mortgages, or prior contracts that are assumed by the purchaser; and
- (5) pays an amount to apply on attorneys' fees actually expended or incurred, of \$125 if the amount in default is less than \$750, and of \$250 if the amount in default is \$750 or more; ~~except as provided in paragraph (b):~~

~~(b) An~~ no amount for attorneys' fees is ~~not~~ required to be paid ~~under this section;~~ unless some part of the conditions of default has existed for at least 30 days prior to the date of service of the notice.

~~(e) Payment of costs of service is not required unless the seller notifies the purchaser of actual costs of service by certified mail to the purchaser's last known address at least ten days prior to the date of termination.~~

Sec. 6. Minnesota Statutes 1985 Supplement, section 559.21, subdivision 3, is amended to read:

Subd. 3. For purposes of this section, the term "notice" means a writing stating the information required in this section, stating the name, address and telephone number of the seller or of an attorney authorized by the seller to accept payments pursuant to the notice and the fact that the person named is authorized to receive the payments, and including the following information in 12-point or larger ~~bold~~ underlined upper-case type, or 8-point type if published, or in large legible handwritten letters:

THIS NOTICE IS TO INFORM YOU THAT BY THIS NOTICE THE SELLER HAS BEGUN PROCEEDINGS UNDER MINNESOTA STATUTES, SECTION 559.21, TO TERMINATE YOUR CONTRACT FOR THE PURCHASE OF YOUR PROPERTY FOR THE REASONS SPECIFIED IN THIS

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NOTICE. THE CONTRACT WILL TERMINATE DAYS AFTER (SERVICE OF THIS NOTICE UPON YOU) (THE FIRST DATE OF PUBLICATION OF THIS NOTICE) UNLESS BEFORE THEN:

(a) THE PERSON AUTHORIZED IN THIS NOTICE TO RECEIVE PAYMENTS RECEIVES FROM YOU;

(1) THE AMOUNT THIS NOTICE SAYS YOU OWE; PLUS

(2) THE COSTS OF SERVICE (TO BE SENT TO YOU); PLUS

(3) \$..... TO APPLY TO ATTORNEYS' FEES ACTUALLY EXPENDED OR INCURRED; PLUS

(4) FOR CONTRACTS EXECUTED ON OR AFTER MAY 1, 1980, ANY ADDITIONAL PAYMENTS BECOMING DUE UNDER THE CONTRACT TO THE SELLER SINCE THE AFTER THIS NOTICE WAS SERVED ON YOU; PLUS THE COSTS OF SERVICE (TO BE SENT TO YOU) TOGETHER WITH

(5) FOR CONTRACTS EXECUTED ON OR AFTER AUGUST 1, 1985, \$ (WHICH IS TWO PERCENT OF THE AMOUNT IN DEFAULT AT THE TIME OF SERVICE OTHER THAN THE FINAL BALLOON PAYMENT, ANY TAXES, ASSESSMENTS, MORTGAGES, OR PRIOR CONTRACTS THAT ARE ASSUMED BY YOU) AND \$: : : : TO APPLY TO ATTORNEYS' FEES ACTUALLY EXPENDED OR INCURRED; OR UNLESS BEFORE THEN

(b) YOU SECURE FROM A COUNTY OR DISTRICT COURT AN ORDER THAT THE TERMINATION OF THE CONTRACT BE SUSPENDED UNTIL YOUR CLAIMS OR DEFENSES ARE FINALLY DISPOSED OF BY TRIAL, HEARING OR SETTLEMENT. YOUR ACTION MUST SPECIFICALLY STATE THOSE FACTS AND GROUNDS THAT DEMONSTRATE YOUR CLAIMS OR DEFENSES.

IF YOU DO NOT DO ONE OR THE OTHER OF THE ABOVE THINGS WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE, YOUR CONTRACT WILL TERMINATE AT THE END OF THE PERIOD AND YOU WILL LOSE ALL THE MONEY YOU HAVE PAID ON THE CONTRACT; YOU WILL LOSE YOUR RIGHT TO POSSESSION OF THE PROPERTY; YOU MAY LOSE YOUR RIGHT TO ASSERT ANY CLAIMS OR DEFENSES THAT YOU MIGHT HAVE; AND YOU WILL BE EVICTED. IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, CONTACT AN ATTORNEY IMMEDIATELY.

Sec. 7. Minnesota Statutes 1985 Supplement, section 559.21, subdivision 4, is amended to read:

Subd. 4. **CONTRARY CONTRACTUAL NOTICE; SERVICE; REINSTATEMENT; TERMINATION.** (a) The notice required by this section must be given

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notwithstanding any provisions in the contract to the contrary, except that earnest money contracts, purchase agreements, and exercised options that are subject to this section may, unless by their terms, they provide for a shorter longer termination period, ~~not less than~~ be terminated on 30 days notice. The notice must be served within the state in the same manner as a summons in the district court, and outside of the state, in the same manner, and without securing any sheriff's return of not found, making any preliminary affidavit, mailing a copy of the notice or doing any other preliminary act or thing whatsoever. Service of the notice outside of the state may be proved by the affidavit of the person making the same, made before an authorized officer having a seal, and within the state by such an affidavit or by the return of the sheriff of any county therein.

(b) Three weeks published notice, and if the premises real estate described in the contract ~~are~~ is actually occupied, then in addition thereto, the personal service of a copy of the notice within ten days after the first date of publication of the notice, and in like manner as the service of a summons in a civil action in the district court, upon the person in possession of the premises real estate, has the same effect as the personal service of the notice upon the purchaser, his or the purchaser's personal representatives or assigns, either within or outside of the state as ~~herein provided for in this section~~. In case of service by publication, ~~as herein provided, the published notice shall specify the conditions in which default has been made, comply with subdivision 3 and state that the purchaser, his or the purchaser's personal representative, representatives or assigns are, is~~ allowed 90 days from and after the first date of publication of the notice to comply with the conditions of the contract, and state that the contract will terminate 90 days after the first date of publication of the notice, unless prior thereto to the termination date the purchaser:

(1) ~~complies with the conditions;~~

(2) ~~makes all payments due and owing to the seller under the contract through the date that payment is made;~~

(3) ~~pays the costs of service, as provided in subdivision 2a;~~

(4) ~~pays two percent of the amount in default at the time of service, not including the final balloon payment, any taxes, assessments, mortgages, or prior contracts that are assumed by the purchaser, and~~

(5) ~~pays attorneys' fees as provided in subdivision 2a notice.~~

(c) The contract is reinstated if, within the time mentioned, the person served:

(1) ~~complies with the conditions~~ in default;

(2) ~~if section 3 or 5 applies,~~ makes all payments due and owing to the seller under the contract through the date that payment is made;

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(3) pays the costs of service as provided in ~~subdivision 2a~~ section 1, 2, 3, or 5;

(4) if section 5 applies, pays two percent of the amount in default, not including the final balloon payment, any taxes, assessments, mortgages, or prior contracts that are assumed by the purchaser; and

(5) pays attorneys' fees as provided in ~~subdivision 2a~~ section 1, 2, 3, or 5.

(d) The contract is terminated if the provisions of paragraph (c) are not met.

(e) In the event that the notice was not signed by an attorney for the seller and the seller is not present in the state, or cannot be found ~~therein~~ in the state, then compliance with the conditions specified in the notice may be made by paying to the clerk of the district court in the county wherein the real estate or any part thereof is situated any money due and filing proof of compliance with other defaults specified, and the clerk of the district court shall be deemed the agent of the seller for such purposes. A copy of the notice with proof of service thereof, and the affidavit of the seller, ~~his~~ the seller's agent or attorney, showing that the purchaser has not complied with the terms of the notice, may be recorded with the county recorder, and is prima facie evidence of the facts ~~therein~~ stated in it; but this section in no case applies to contracts for the sale or conveyance of lands situated in another state or in a foreign country.

Sec. 8. Minnesota Statutes 1985 Supplement, section 559.21, subdivision 6, is amended to read:

Subd. 6. ~~TEMPORARY ADDITIONAL MINIMUM NOTICE.~~ (a) Notwithstanding the provisions of any other law to the contrary, this subdivision applies to a notice to terminate a contract for conveyance of homestead property to which the provisions of chapter 583 apply, served after May 24, 1983, and prior to May 1, 1985, or after June 8, 1985, and prior to May 1, 1987. The notice must provide that the contract will terminate 60 days after service of notice, or 90 days after service of notice if the contract was entered into after May 1, 1980, and prior to August 1, 1985, and the purchaser has paid 25 percent or more of the purchase price. The notice must specify this 60- or 90-day period. The notice must include a statement that the purchaser may be eligible for an extension of the time prior to termination under sections 583.01 to 583.12.

(b) The statement must be in bold type, capitalized letters, or other form sufficient for the reader to quickly and easily distinguish the statement from the rest of the notice. The requirements of this paragraph must be followed on notices served under this subdivision on or after August 1, 1985. A violation of this paragraph is a petty misdemeanor.

(c) This subdivision does not apply to earnest money contracts, purchase agreements or exercised options.

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Sec. 9. FORMER TERMINATION NOTICE LAW VALID.

The legislature hereby reaffirms the validity of Laws 1985, First Special Session chapter 18, sections 6 to 11, with respect to all termination notices served after July 31, 1985, and before August 1, 1986. Nothing contained in sections 1 to 7 shall be construed to invalidate any contract termination made in accordance with Laws 1985, First Special Session chapter 18, sections 6 to 11, when the termination notice was first served on any party or first published before August 1, 1986.

Sec. 10. APPLICABILITY.

Sections 1 to 8 apply to termination notices first served on any party or first published on or after August 1, 1986.

Sec. 11. APPROPRIATION.

\$25,000 the first year and \$25,000 the second year is appropriated from the real estate education, research, and recovery account in the special revenue fund to the commissioner of commerce for the purposes of Minnesota Statutes, section 82.34, subdivision 6, and must be added to the appropriation for the same purpose in Laws 1985, First Special Session chapter 10, section 7, subdivision 3.

Approved March 25, 1986

CHAPTER 439—S.F.No. 1949

An act relating to natural resources; requiring public access restrictions to be the same as lake use restrictions; amending Minnesota Statutes 1984, sections 378.32, subdivisions 2, 6, and 7; and 459.20; proposing coding for new law in Minnesota Statutes, chapter 378.

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

Section 1. Minnesota Statutes 1984, section 378.32, subdivision 2, is amended to read:

Subd. 2. To regulate and police public beaches, public docks and other public facilities for access to the body of water, except that regulations are subject to section 4 and a county board may not regulate state accesses and a municipality may by ordinance forbid the exercise of this preempt the county from exercising power under this subdivision within its jurisdiction;

Sec. 2. Minnesota Statutes 1984, section 378.32, subdivision 6, is amended to read:

Subd. 6. Except as provided in section 4, to regulate the type and size of watercraft, as defined in section 361.02, subdivision 7, permitted to use the body of water and set access fees;

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