

FEB 10 2000

Agriculture

HOUSE FILE 2211  
BY 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 2211

1 Section 1. Section 468.112, Code Supplement 1999, is  
2 amended to read 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 1999, 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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