

MAR 15 2005
Place On Calendar

HOUSE FILE 762
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HF 507)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for the liability of a landowner who provides
2 for drainage.

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

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HF 762

1 Sec. 1. Section 468.621, Code 2005, is amended to read as
2 follows:

3 468.621 DRAINAGE IN COURSE OF NATURAL DRAINAGE --
4 RECONSTRUCTION -- DAMAGES.

5 ~~Owners~~ An owner of land may drain the land in the general
6 course of natural drainage by constructing or reconstructing
7 open or covered drains, and discharging the drains in any
8 natural watercourse or depression so the water will be carried
9 into some other natural watercourse, ~~and if.~~ If the drainage
10 is wholly upon the owner's land, the owner is not liable in
11 for damages for the drainage ~~unless it increases the quantity~~
12 ~~of water or changes the manner of discharge on the land of~~
13 ~~another.~~ An owner in constructing a replacement drain, wholly
14 on the owner's land, and in the exercise of due care, is not
15 liable in damages to another if a previously constructed drain
16 on the owner's own land is rendered inoperative or less
17 efficient by the new drain, unless in violation of the terms
18 of a written contract. This section does not affect the
19 rights or liabilities of proprietors in respect to running
20 streams.

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EXPLANATION

22 This bill amends Code chapter 468, which provides for the
23 establishment and maintenance of drainage and levee districts.
24 Code section 468.21 provides that the owner of land may drain
25 water on their land to another watercourse. The bill
26 addresses the case in which the drainage is entirely on the
27 owner's land. Prior to 1987, the Code section provided that
28 the landowner would not be liable for the drainage. In that
29 year the section was amended to provide that a landowner was
30 liable for damages if the diversion increased the quantity of
31 water on other land or it altered how water on the other land
32 discharged into a water source (1987 Iowa Acts, ch. 225, §
33 306). The bill eliminates that change.

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