

**Sixty-second Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1459
(Representatives Belter, Headland, Schmidt)
(Senators Luick, Wanzek, Dotzenrod)

AN ACT to create and enact a new subsection to section 61-21-02 and a new section to chapter 61-32 of the North Dakota Century Code, relating to subsurface drainage of water; to provide a penalty; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 61-21-02 of the North Dakota Century Code is created and enacted as follows:

The installation of artificial subsurface drainage systems.

SECTION 2. A new section to chapter 61-32 of the North Dakota Century Code is created and enacted as follows:

Permit to drain subsurface waters - Permit form - Penalty.

Installation of an artificial subsurface drainage system comprising eighty acres [32.37 hectares] of land area or more requires a permit. The state engineer shall develop an application form for a permit for subsurface drainage of water. A person seeking to construct an artificial subsurface drainage system must submit an application to the water resource district within which is found a majority of the land area for consideration and approval. Water resource districts may attach any necessary conditions to an approved permit, but may not deny an application unless the water resource district determines the application is of statewide significance or the proposed drainage will flood or adversely affect downstream landowners within one mile [1.61 kilometers] of the proposed subsurface drainage. Water resource districts must forward copies of all approved permits to the state engineer. Water resource districts shall determine if the application proposes drainage of statewide significance. If so, the application must be referred to the state engineer for consideration and approval, and the state engineer shall make a determination within thirty days. The permit applicant shall provide a thirty-day notice to downstream property owners within one mile [1.61 kilometers] of the proposed subsurface drainage. If an investigation by a water resource district or a downstream landowner within one mile [1.61 kilometers] shows that the proposed drainage will flood or adversely affect downstream landowners within one mile [1.61 kilometers], the water resource district may require flowage easements before issuing a permit. If an artificial subsurface drainage system drains into an assessment drain, natural watercourse, or pond, slough, or lake, a flowage easement is not required. Flowage easements must be filed for record in the office of the recorder of the county or counties in which the lands are situated. A person that installs an artificial subsurface drainage system without first securing a permit to do so, as provided in this section, is liable for all damage sustained by a person caused by the draining, and is guilty of an infraction.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1459 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 79 Nays 14 Absent 1

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 45 Nays 2 Absent 0

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2011.

Approved at _____ M. on _____, 2011.

Governor

Filed in this office this _____ day of _____, 2011,
at _____ o'clock _____ M.

Secretary of State