

THE DRAIN CODE OF 1956 (EXCERPT)

Act 40 of 1956

CHAPTER 15.

DAMS IN DRAINS.

280.351 Dams in drains to control flow, water levels and seepage; removal of drainage by pumps.

Sec. 351. Established drains may be improved for the benefit of those whose lands were improved by the original construction of such drain, by the construction, operation and maintenance of dams in drains to control flow, water levels and seepage and to provide for the removal of the drainage when necessary by the use of pumps and other mechanical operations.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.352 Dams in drains; petition, signers, contents, examination, finding.

Sec. 352. When it appears upon the written petition of a number of freeholders in the drainage district equal to 50% of the number of freeholders whose lands are traversed by said drain from the point where said dam or dams are located to the upper terminus, that such improvement is desired to be made by damming such drain and maintaining and operating such dam or dams to control flow, water levels and seepage or to provide for pumping the drainage where necessary from said drain or watercourse, and that such improvement and the maintenance and operation of such dam or dams is necessary to properly drain said lands and to protect the lands through which said drain runs, or to protect the rights of freeholders above such dam or dams, or the rights of freeholders of land adjacent or contiguous to the drainage district, or for the purpose of irrigation, said petition stating where it is desired to construct said dam or dams and the proposed method of operation of such dam or dams to control flow, water levels or seepage, or how the drainage is to be removed and where it is to be emptied, the commissioner shall, as soon as practicable after receipt of such petition, proceed to examine said drain and pass upon the necessity of such improvement and whether such improvement is practicable and conducive to the public health, convenience or welfare, or an improvement or necessity to preserve the adjoining lands thereto, or to protect rights in lands, or for the purpose of irrigation.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.353 Dams in drains; first order of determination, contents.

Sec. 353. If such commissioner determines such improvement, as set forth in the petition, to be practicable and a necessity to properly drain such lands, or to protect rights in lands, or for the purpose of irrigation to be conducive to the public health, convenience or welfare, or to preserve or protect the adjoining lands thereto, he shall within 60 days make an order of determination in writing, thereby stating where such dam is to be constructed and to designate its dimensions and to designate, where necessary, the method by which the drainage is to be carried away and where it is to be emptied.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.354 Dams in drains; construction contract with owners of lands benefited; default, contract for completion, costs and expenses.

Sec. 354. If at any time after the commissioner has issued his first order of determination declaring such improvement to be necessary, and before the letting of any contract for constructing the same, all of the owners of the land through which or for the benefit of which such drain is located shall by themselves, their agents or attorneys, pay to the commissioner all the costs and expenses thus far incurred by him, and shall severally or jointly enter into a contract, with good and sufficient sureties and in such sum as the commissioner may require, to construct such improvements on such drain and pay all expenses necessary to be incurred in the construction, maintenance and operation of the same, then the commissioner may contract with such owner or owners, and such improvements when accepted shall be certified by the commissioner as a drain constructed in pursuance of the provisions of this act, and shall be recorded in the same manner as other drains. If such contract is not fulfilled in the time limited therein, the commissioner shall contract with other parties for the completion of the work and the parties so in default and their sureties shall be liable for all costs and expenses attending such default.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.355 Dams in drains; supervision of work; governing provisions.

Sec. 355. All work done under the provisions of this act shall be under the supervision of the commissioner. All the provisions of this act relative to proceedings after the filing of petition for the determination of the necessity, institution of condemnation proceedings and proceedings had thereon and the construction, operation and maintenance of the improvements mentioned in such petition, and the assessment and review and levy and collection of taxes and all other provisions of said act not inconsistent with the provisions of this act shall be applicable in the construction, operation and maintenance of dams and the better maintenance of such drainage work by embanking, pumping or other mechanical operation or other work under the provisions of this act.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40

280.356 Dams in drains; intercounty drains; governing provisions.

Sec. 356. Each and every act required by the foregoing sections of this chapter to be done and performed by the commissioner shall be done and performed by the drainage board where the petition for the establishment of such dam relates to or affects drains traversing more than 1 county or affecting lands in more than 1 county. On receipt of such petition it shall be the duty of such commissioner to notify the commissioner of each county affected and the state director of agriculture and call a meeting in the manner and at the time provided by section 102 of this act.

History: 1956, Act 40, Imd. Eff. Mar. 28, 1956.

Popular name: Act 40