

(a) The uniform commercial code account is established as an account in the state treasury.

(b) The filing officer with whom a financing statement, ~~amendment assignment~~, or continuation statement is filed, or to whom a request for search is made, shall collect a \$2 surcharge on each filing or search. By ~~June 1 and December 1~~ of each year the fifteenth day following the end of each fiscal quarter, each county recorder shall forward the ~~accumulated~~ receipts from the surcharge accumulated during that fiscal quarter to the secretary of state. The surcharge does not apply to a search request made by a natural person who is the subject of the data to be searched except when a certificate is requested as a part of the search.

(c) The surcharge amounts received from county recorders and the surcharge amounts collected by the secretary of state's office must be deposited in the state treasury and credited to the uniform commercial code account.

(d) Fees that are not expressly set by statute but are charged by the secretary of state to offset the costs of providing a service under sections 336.9-411 to 336.9-413 must be deposited in the state treasury and credited to the uniform commercial code account.

(e) Fees that are not expressly set by statute but are charged by the secretary of state to offset the costs of providing information contained in the computerized records maintained by the secretary of state must be deposited in the state treasury and credited to the uniform commercial code account.

(f) Money in the uniform commercial code account is continuously appropriated to the secretary of state to implement and maintain the computerized uniform commercial code filing system under section 336.9-411 and to provide electronic-view-only access to other computerized records maintained by the secretary of state.

Approved April 21, 1988

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#### CHAPTER 590—S.F.No. 462

*An act relating to marriage dissolution; providing a date for valuing marital assets; providing for partial distribution of marital assets; requiring parties to file a statement of assets and liabilities; providing that parties owe each other a fiduciary duty with respect to marital assets; amending Minnesota Statutes 1986, sections 518.54, subdivision 5; and 518.58.*

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

Section 1. Minnesota Statutes 1986, section 518.54, subdivision 5, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 5. **MARITAL PROPERTY; EXCEPTIONS.** "Marital property" means property, real or personal, including vested pension benefits or rights, acquired by the parties, or either of them, to a dissolution, legal separation, or annulment proceeding at any time during the existence of the marriage relation between them, or at any time during which the parties were living together as husband and wife under a purported marriage relationship which is annulled in an annulment proceeding, but prior to the date of valuation under section 518.58, subdivision 1. All property acquired by either spouse subsequent to the marriage and before a decree of legal separation ~~the valuation date~~ is presumed to be marital property regardless of whether title is held individually or by the spouses in a form of coownership such as joint tenancy, tenancy in common, tenancy by the entirety, or community property. Each spouse shall be deemed to have a common ownership in marital property that vests not later than the time of the entry of the decree in a proceeding for dissolution or annulment. The extent of the vested interest shall be determined and made final by the court pursuant to section 518.58. The presumption of marital property is overcome by a showing that the property is nonmarital property.

"Nonmarital property" means property real or personal, acquired by either spouse before, during, or after the existence of their marriage, which

(a) is acquired as a gift, bequest, devise or inheritance made by a third party to one but not to the other spouse;

(b) is acquired before the marriage;

(c) is acquired in exchange for or is the increase in value of property which is described in clauses (a), (b), (d), and (e);

(d) is acquired by a spouse after a decree of legal separation the valuation date; or

(e) is excluded by a valid antenuptial contract.

Sec. 2. Minnesota Statutes 1986, section 518.58, is amended to read:

#### 518.58 DIVISION OF MARITAL PROPERTY.

Subdivision 1. GENERAL. Upon a dissolution of a marriage, an annulment, or in a proceeding for disposition of property following a dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property and which has since acquired jurisdiction, the court shall make a just and equitable division of the marital property of the parties without regard to marital misconduct, after making findings regarding the division of the property. The court shall base its findings on all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, opportunity for future acquisition of capital assets, and income of each party. The court shall also

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consider the contribution of each in the acquisition, preservation, depreciation or appreciation in the amount or value of the marital property, as well as the contribution of a spouse as a homemaker. It shall be conclusively presumed that each spouse made a substantial contribution to the acquisition of income and property while they were living together as husband and wife. The court may also award to either spouse the household goods and furniture of the parties, whether or not acquired during the marriage. The court shall value marital assets for purposes of division between the parties as of the day the proceeding for dissolution or annulment is commenced, unless a different date is agreed upon by the parties, or unless the court finds that the parties subsequently made a good faith reconciliation, in which case the court may establish the valuation date as of the date the reconciliation ended. Within 60 days after a proceeding for dissolution or annulment is commenced, unless the time is extended either by agreement of the parties or by order of the court for good cause shown, each party shall serve and file a verified statement identifying all assets, marital and nonmarital, the values of the assets and the basis for the values, and disclosing all liabilities of the parties. If there is a substantial change in value of an asset between the date of valuation and the final distribution, the court may adjust the valuation of that asset as necessary to effect an equitable distribution. During the pendency of a marriage dissolution or annulment proceeding, each party owes a fiduciary duty to the other for any profit or loss derived by the party, without consent of the other, from a transaction or from any use by the party of the marital assets.

**Subd. 2. AWARD OF NONMARITAL PROPERTY.** If the court finds that either spouse's resources or property, including the spouse's portion of the marital property as defined in section 518.54, subdivision 5 are so inadequate as to work an unfair hardship, considering all relevant circumstances, the court may, in addition to the marital property, apportion up to one-half of the property otherwise excluded under section 518.54, subdivision 5, clauses (a) to (d) to prevent the unfair hardship. If the court apportions property other than marital property, it shall make findings in support of the apportionment. The findings shall be based on all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, and opportunity for future acquisition of capital assets and income of each party.

**Subd. 3. SALE OR DISTRIBUTION WHILE PROCEEDING PENDING.** (a) If the court finds that it is necessary to preserve the marital assets of the parties, the court may order the sale of the homestead of the parties or the sale of other marital assets, as the individual circumstances may require, during the pendency of a proceeding for a dissolution of marriage or an annulment. If the court orders a sale, it may further provide for the disposition of the funds received from the sale during the pendency of the proceeding.

(b) The court may order a partial distribution of marital assets during the pendency of a proceeding for a dissolution of marriage or an annulment for good cause shown or upon the request of both parties, provided that the court shall fully protect the interests of the other party.

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**Sec. 3. EFFECTIVE DATE.**

Sections 1 and 2 are effective August 1, 1988, and apply to dissolution and annulment proceedings commenced on or after that date.

Approved April 21, 1988

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**CHAPTER 591—S.F.No. 1086**

*An act relating to commerce; permitting certain charitable trusts to dispose of certain bank assets; proposing coding for new law in Minnesota Statutes, chapter 501.*

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

**Section 1. [501.805] SALE OF BANKS OWNED BY CHARITABLE TRUSTS.**

**Subdivision 1. DEFINITION.** For the purpose of this section, a "charitable trust" is a charitable trust subject to supervision by the attorney general under the supervision of charitable trusts and trustees act, sections 501.71 to 501.81, which is required to divest excess business holdings by section 4943 of the Internal Revenue Code of 1954 and which owned 100 percent of a bank holding company on May 26, 1969, the date of enactment of section 4943 of the Internal Revenue Code of 1954.

**Subd. 2. AUTHORIZATION.** The stock or assets of one or more banks or a bank holding company owned directly or indirectly by a charitable trust may be sold, assigned, merged, or transferred by the charitable trust under the procedures set forth in section 48.93 to a bank holding company, bank, or other qualified entity as permitted by applicable banking laws without regard to whether the entity acquiring the stock or assets is located in a reciprocating state.

**Subd. 3. LEGISLATIVE INTENT.** It is the express intention of the Minnesota legislature to act pursuant to United States Code, title 12, section 1842(d) so as to permit certain charitable trusts to sell, assign, or transfer certain financial institutions' assets without regard to whether the entity acquiring the assets of the charitable trust is located outside of this state.

**Subd. 4. ADDITIONAL ACQUISITIONS.** Any bank holding company, other than a reciprocating state bank holding company as defined in section 48.92, subdivision 8, that directly or indirectly acquires control of a bank located in this state under the provisions of this section may acquire additional bank assets through the expenditure of an amount not to annually exceed five percent of the Minnesota assets of the acquired bank holding company as of December 31 of the preceding year. The restrictions within this subdivision apply only until the bank holding company making an acquisition under this section becomes

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