

CHAPTER 229—S.F.No. 535

An act relating to real property; abolishing certain residual marital interests in real property; clarifying that the 40-year limitation on actions affecting title to real estate applies to an action based on an option to repurchase or other restrictions on a surface estate; providing for certain certifications; changing effective dates for provisions relating to validation of foreclosure sales; amending Minnesota Statutes 1988, sections 484.74, subdivision 4, and by adding a subdivision; 541.023, subdivision 2; 548.181, subdivisions 1, 3, and by adding a subdivision; and 582.27; proposing coding for new law in Minnesota Statutes, chapter 519.

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

Section 1. Minnesota Statutes 1988, section 484.74, is amended by adding a subdivision to read:

Subd. 2a. CONSENSUAL SPECIAL MAGISTRATES. In addition to the alternatives under subdivision 1, in cases where the amount in controversy exceeds \$50,000, and with the consent of all of the parties, the presiding judge may submit to the parties a list of retired judges or qualified attorneys who are available to serve as special magistrates for binding proceedings under this subdivision. If the parties agree on selection of a person from the list, the presiding judge may appoint, by order, the person as a special magistrate. The special magistrate may preside over any pretrial and trial matters as determined by the presiding judge. If there is a right to a jury trial, the special magistrate shall conduct the jury trial pursuant to the rules of court and shall use the jury pool of the county in which the action is venued. The presiding judge may adopt the rulings and findings of the special magistrate and the results of any jury trial without modification. The parties have a right to appeal from the presiding judge's rulings and findings and from the jury verdict as in other civil matters.

Subject to chapter 563, the special magistrate's fees and expenses must be borne by the parties on a basis determined to be fair and equitable by the presiding judge, upon recommendation by the special magistrate. The special magistrate may assess costs against a party for failure to comply with rules or orders, or for litigation that is frivolous or brought in bad faith.

Sec. 2. Minnesota Statutes 1988, section 484.74, subdivision 4, is amended to read:

Subd. 4. APPLICATION. This section applies only to the fourth judicial district, which will serve as a pilot project to evaluate the effectiveness of alternative forms of resolving commercial and personal injury disputes. The state court administrator shall evaluate the pilot project and report the findings to the chairs of the house and senate judiciary committees by January 15, ~~1989~~ 1991.

Sec. 3. [519.091] RESIDUAL MARITAL PROPERTY RIGHTS ABOLISHED.

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

Subdivision 1. INTEREST ABOLISHED. The marital property interest in real property, as defined in section 518.54, subdivision 5, that was owned by a person's former spouse is abolished effective July 1, 1990, as against the interest of a third person that is of record before January 1, 1989.

Subd. 2. EXCEPTIONS. Subdivision 1 does not apply if:

(1) the marital property interest is determined under a decree of dissolution, legal separation, or annulment; or

(2) an action claiming the marital property interest is begun before July 1, 1990, and a notice is filed for record within that period in the office of the county recorder or registrar of titles in the county where the property is located.

Sec. 4. Minnesota Statutes 1988, section 541.023, subdivision 2, is amended to read:

Subd. 2. **APPLICATION.** (a) This section shall apply to every right, claim, interest, incumbrance or lien founded by any instrument, event or transaction 40 years old at the date hereof, or which will be 40 years old prior to January 1, 1948, except those under which the claimant thereunder shall file a notice as herein provided prior to January 1, 1948.

(b) This section applies to repurchase options or other rights of repurchase that encumber an interest in land based upon an instrument other than a deed of conveyance granted by a governmental body, agency, or subdivision, unless within 40 years of the recording or filing of the instrument a notice is recorded or filed under subdivision 1. This paragraph does not revive repurchase options or rights of repurchase barred by subdivision 1.

Sec. 5. Minnesota Statutes 1988, section 548.181, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION FOR DISCHARGE.** A judgment debtor who has received a discharge under United States Code, title 11, or an interested party, upon paying a filing fee of \$5 for each judgment, may apply to the court administrator of any court for the discharge of all judgments entered in that court against the judgment debtor that were ordered discharged by the bankruptcy discharge.

Sec. 6. Minnesota Statutes 1988, section 548.181, subdivision 3, is amended to read:

Subd. 3. **OBJECTION TO DISCHARGE.** The court administrator, without further notice or hearing, shall discharge each judgment except a judgment in favor of a judgment creditor who has filed an objection to discharge of the judgment within 20 days after service of the application on the judgment creditor. An objection to discharge of a judgment must be served on the judgment debtor in the same manner as an answer in a civil action.

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

Sec. 7. Minnesota Statutes 1988, section 548.181, is amended by adding a subdivision to read:

Subd. 3a. CERTIFICATION OF DISCHARGE. Upon receipt of a filing fee of \$5, the court administrator shall certify to the judgment debtor or other interested party the judgments against a person that have been discharged by the administrator.

Sec. 8. Minnesota Statutes 1988, section 582.27, is amended to read:

582.27 EFFECTIVE DATES.

Subdivision 1. The following schedule specifies the dates to be applied to the provisions of section 582.25:

(A) As to the general provision of section 582.25, May 1, 1984 1988;

(B) As to clause (1), ~~May 10, 1985~~ the day following final enactment of this act;

(C) As to clause (2), January 1, 1974 1978;

(D) As to clause (5), ~~May 10, 1985~~ the day following final enactment of this act;

(E) As to clause (8), ~~May 10, 1985~~ the day following final enactment of this act;

(F) As to clause (10) (a), ~~May 10, 1985~~ the day following final enactment of this act.

Subd. 2. The date of the report of sale to which section 582.26 applies is ~~May 10, 1985~~ the day following final enactment of this act.

Subd. 3. The provisions of sections 582.25 to 582.27 shall not affect any action or proceeding pending on August 1, ~~1985 1989~~, or which shall be commenced before February 1, ~~1986 1990~~, in any of the courts of the state, involving the validity of such foreclosure.

Sec. 9. EFFECTIVE DATE; APPLICATION.

Section 4 is effective January 1, 1990, and applies to actions commenced on or after that date.

Section 8 is effective the day following final enactment.

Presented to the governor May 22, 1989

Signed by the governor May 23, 1989, 7:00 a.m.

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