

five or seven members consisting, except during the initial period of its operation as provided in section 412.571, of the mayor and four or six council members and, except as provided in that section, the clerk and treasurer or clerk-treasurer shall be appointed by the council for indefinite terms.

Sec. 10. Minnesota Statutes 1988, section 412.631, is amended to read:

412.631 COMPOSITION OF COUNCIL.

In any city operating under Optional Plan B, the council shall, except as provided in sections 412.023, subdivision 4, and 412.571, be composed of a mayor and four or six council members.

Presented to the governor April 12, 1989

Signed by the governor April 13, 1989, 5:56 p.m.

CHAPTER 31—H.F.No. 937

An act relating to commerce; uniform commercial code; providing a 20-day notice period for certain fixture filings; amending Minnesota Statutes 1988, section 336.9-313.

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

Section 1. Minnesota Statutes 1988, section 336.9-313, is amended to read:

336.9-313 PRIORITY OF SECURITY INTERESTS IN FIXTURES.

(1) In this section and in the provisions of part 4 of this article referring to fixture filing, unless the context otherwise requires

(a) goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law.

(b) a "fixture filing" is the filing in the office where a mortgage on the real estate would be filed or recorded of a financing statement covering goods which are or are to become fixtures and conforming to the requirements of subsection (5) of section 336.9-402 except in the case of a fixture filing by a transmitting utility, which shall be governed by subsection (5) of section 336.9-401.

(c) a mortgage is a "construction mortgage" to the extent that it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates.

(2) A security interest under this article may be created in goods which are fixtures or may continue in goods which become fixtures, but no security interest exists under this article in ordinary building materials incorporated into an improvement on land.

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

(3) This article does not prevent creation of an encumbrance upon fixtures pursuant to real estate law.

(4) A perfected security interest in fixtures has priority over the conflicting interest of an encumbrancer or owner of the real estate where

(a) the security interest is a purchase money security interest, the interest of the encumbrancer or owner arises before the goods become fixtures, the security interest is perfected by a fixture filing before the goods become fixtures or within ~~ten~~ 20 days thereafter, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(b) the security interest is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the security interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(c) the fixtures are readily removable factory or office machines or readily removable replacements of domestic appliances which are consumer goods, and before the goods become fixtures the security interest is perfected by any method permitted by this article; or

(d) the conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this article.

(5) A security interest in fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate where

(a) the encumbrancer or owner has consented in writing to the security interest or has disclaimed an interest in the goods as fixtures; or

(b) the debtor has a right to remove the goods as against the encumbrancer or owner. If the debtor's right terminates, the priority of the security interest continues for a reasonable time.

(6) Notwithstanding paragraph (a) of subsection (4) but otherwise subject to subsections (4) and (5), a security interest in fixtures is subordinate to a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent that it is given to refinance a construction mortgage, a mortgage has this priority to the same extent as the construction mortgage.

(7) In cases not within the preceding subsections, a security interest in fixtures is subordinate to the conflicting interest of an encumbrancer or owner of the related real estate who is not the debtor.

(8) When the secured party has priority over all owners and encumbrancers of the real estate, the secured party may, on default, subject to the provisions of

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

part 5, remove collateral from the real estate but the secured party must reimburse any encumbrancer or owner of the real estate who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation.

Presented to the governor April 12, 1989

Signed by the governor April 14, 1989, 3:11 p.m.

CHAPTER 32—S.F.No. 114

An act relating to the town of St. Augusta; authorizing the establishment of a detached banking facility under certain conditions.

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

Section 1. TOWN OF ST. AUGUSTA; DETACHED BANKING FACILITY.

With the prior approval of the commissioner of commerce, a bank doing business within 100 miles of the town of St. Augusta may establish and maintain not more than one detached facility in the town of St. Augusta. A bank desiring to establish a detached facility under this section must follow the approval procedure in Minnesota Statutes, section 47.54. The establishment of the detached facility is subject to Minnesota Statutes, sections 47.51 to 47.57, except to the extent those sections are inconsistent with this section.

Sec. 2. LOCAL APPROVAL.

Section 1 takes effect the day after compliance by the town board of St. Augusta with Minnesota Statutes, section 645.021, subdivision 3.

Presented to the governor April 13, 1989

Signed by the governor April 14, 1989, 3:12 p.m.

CHAPTER 33—H.F.No. 481

An act relating to the city of Mora; authorizing the city to negotiate certain contracts without competitive bids.

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