

CHAPTER 5—S.F.No. 119

An act relating to health; modifying requirements for the nursing assistant competency evaluation program; amending Minnesota Statutes 1992, section 144A.61, subdivision 3a.

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

Section 1. Minnesota Statutes 1992, section 144A.61, subdivision 3a, is amended to read:

Subd. 3a. **COMPETENCY EVALUATION PROGRAM.** The commissioner of health shall approve the competency evaluation program. A competency evaluation must be administered to nursing assistants who desire to be listed in the nursing assistant registry and who have done one of the following: (1) completed an approved training program; or (2) been listed on the nursing assistant registry maintained by another state; or (3) completed a training program in nursing assistant skills other than the approved course are enrolled in a licensed nurse education program. The tests may only be administered by technical colleges, community colleges, or other organizations approved by the department of health. A competency evaluation for a person, other than an individual enrolled in a licensed nurse education program, who has not completed an approved nursing assistant training program, must include an evaluation of all clinical skills. The commissioner of health shall approve a nursing assistant for the registry without requiring a competency evaluation if the nursing assistant is in good standing on a nursing assistant registry in another state.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective the day following final enactment.

Presented to the governor March 9, 1993

Signed by the governor March 10, 1993, 2:03 p.m.

CHAPTER 6—S.F.No. 48

An act relating to real property; providing for recordation of mortgage satisfaction or release following change in identity of corporate mortgagee or assignee; allowing enforcement of assignment of rents and profits of certain mortgaged real property, against only non-homestead portion of that property; providing procedures for interested person to file for record a request for notice of mortgage foreclosure; allowing postponement of foreclosure sale by party conducting the foreclosure; providing that certain forfeitures of real property are subject to interests of good faith purchasers; amending Minnesota Statutes 1992, sections 507.411; 559.17, subdivision 2; 580.032, subdivision 1; 580.07; and 609.5311, subdivision 3.

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

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Section 1. Minnesota Statutes 1992, section 507.411, is amended to read:

507.411 SATISFACTION AND RELEASE OF MORTGAGES; CORPORATE NAME OR IDENTITY CHANGE.

When a change in the name or identity of a corporate mortgagee or assignee of the mortgagee is caused by or results from a merger, consolidation, amendment to charter or articles of incorporation, or conversion of articles of incorporation or charter from federal to state, from state to federal, or from one form of entity to another, a mortgage satisfaction or release that is otherwise recordable and that specifies, in ~~both the body and acknowledgment, of the instrument~~ the merger, consolidation, amendment, or conversion event causing the change in name or identity is in recordable form. The satisfaction or release is entitled to be recorded in the office of the county recorder or filed with the registrar of titles, without further evidence of corporate merger, consolidation, amendment, or conversion. For purposes of satisfying or releasing the mortgage, the satisfaction or release is prima facie evidence of the facts stated in it with respect to the corporate merger, consolidation, amendment, or conversion, and the county recorder and the registrar of titles shall rely upon it to satisfy or release the mortgage.

Sec. 2. Minnesota Statutes 1992, section 559.17, subdivision 2, is amended to read:

Subd. 2. A mortgagor may assign, as additional security for the debt secured by the mortgage, the rents and profits from the mortgaged real property, if the mortgage:

- (1) was executed, modified or amended subsequent to August 1, 1977;
- (2) secured an original principal amount of \$100,000 or more or is a lien upon residential real estate containing more than four dwelling units; and
- (3) is not a lien upon property which was:
 - (i) entirely homesteaded; as agricultural property; or
 - (ii) residential real estate containing four or ~~less~~ fewer dwelling units where at least one of the units is homesteaded; ~~or agricultural property~~. The assignment may be enforced, but only against the nonhomestead portion of the mortgaged property, as follows:

(a) if, by the terms of an assignment, a receiver is to be appointed upon the occurrence of some specified event, and a showing is made that the event has occurred, the court shall, without regard to waste, adequacy of the security, or solvency of the mortgagor, appoint a receiver who shall, with respect to the excess cash remaining after application as provided in section 576.01, subdivision 2, apply it as prescribed by the assignment. If the assignment so provides, the receiver shall apply the excess cash in the manner set out herein from the date of appointment through the entire redemption period from any foreclosure

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sale. Subject to the terms of the assignment, the receiver shall have the powers and duties as set forth in section 576.01, subdivision 2; or

(b) if no provision is made for the appointment of a receiver in the assignment or if by the terms of the assignment a receiver may be appointed, the assignment shall be binding upon the assignor unless or until a receiver is appointed without regard to waste, adequacy of the security or solvency of the mortgagor, but only in the event of default in the terms and conditions of the mortgage, and only in the event the assignment requires the holder thereof to first apply the rents and profits received as provided in section 576.01, subdivision 2, in which case the same shall operate against and be binding upon the occupiers of the premises from the date of filing by the holder of the assignment in the office of the county recorder or the office of the registrar of titles for the county in which the property is located of a notice of default in the terms and conditions of the mortgage and service of a copy of the notice upon the occupiers of the premises. The holder of the assignment shall apply the rents and profits received in accordance with the terms of the assignment, and, if the assignment so provides, for the entire redemption period from any foreclosure sale. A holder of an assignment who enforces it in accordance with this clause shall not be deemed to be a mortgagee in possession with attendant liability.

Nothing contained herein shall prohibit the right to reinstate the mortgage debt granted pursuant to section 580.30, nor the right to redeem granted pursuant to sections 580.23 and 581.10, and any excess cash, as that term is used herein, collected by the receiver under clause (a), or any rents and profits taken by the holder of the assignment under clause (b), shall be credited to the amount required to be paid to effect a reinstatement or redemption.

Sec. 3. Minnesota Statutes 1992, section 580.032, subdivision 1, is amended to read:

Subdivision 1. **FILING REQUEST FOR NOTICE.** A person having a redeemable interest in real property under section 580.23 or 580.24, may file for record a request for notice of a mortgage foreclosure by advertisement with the county recorder or registrar of titles of the county where the property is located. To be effective for purposes of this section, a request for notice must be filed for record as a separate and distinct document, or may be incorporated in a mechanic's lien statement filed for record pursuant to section 514.08, if the mechanic's lien statement includes a request for notice and includes the name and mailing address of the person requesting notice.

Sec. 4. Minnesota Statutes 1992, section 580.07, is amended to read:

580.07 POSTPONEMENT.

~~Such~~ The sale may be postponed, from time to time, by the party conducting the foreclosure, by inserting a notice of ~~such~~ the postponement, as soon as practicable, in the newspaper in which the original advertisement was published, and continuing ~~such~~ the publication until the time to which the sale is postponed, at the expense of the party requesting the ~~same~~ postponement.

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Sec. 5. Minnesota Statutes 1992, section 609.5311, subdivision 3, is amended to read:

Subd. 3. **LIMITATIONS ON FORFEITURE OF CERTAIN PROPERTY ASSOCIATED WITH CONTROLLED SUBSTANCES.** (a) A conveyance device is subject to forfeiture under this section only if the retail value of the controlled substance is \$25 or more and the conveyance device is associated with a felony-level controlled substance crime.

(b) Real property is subject to forfeiture under this section only if the retail value of the controlled substance or contraband is \$1,000 or more.

(c) Property used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section only if the owner of the property is a consenting party to, or is privy to, the use or intended use of the property as described in subdivision 2.

(d) Property is subject to forfeiture under this section only if its owner was privy to the use or intended use described in subdivision 2, or the unlawful use or intended use of the property otherwise occurred with the owner's knowledge or consent.

(e) Forfeiture under this section of a conveyance device or real property encumbered by a bona fide security interest is subject to the interest of the secured party unless the secured party had knowledge of or consented to the act or omission upon which the forfeiture is based. A person claiming a security interest bears the burden of establishing that interest by clear and convincing evidence.

(f) Forfeiture under this section of real property is subject to the interests of a good faith purchaser for value unless the purchaser had knowledge of or consented to the act or omission upon which the forfeiture is based.

(g) Notwithstanding paragraphs (d) ~~and~~, (e), and (f), property is not subject to forfeiture based solely on the owner's or secured party's knowledge of the unlawful use or intended use of the property: (1) if the owner or secured party took reasonable steps to terminate use of the property by the offender; or (2) the property is real property owned by the parent of the offender, unless the parent actively participated in, or knowingly acquiesced to, a violation of chapter 152, or the real property constitutes proceeds derived from or traceable to a use described in subdivision 2.

Sec. 6. EFFECTIVE DATE; APPLICATION.

Section 1 is effective retroactively to March 7, 1991. Section 2 is effective the day following final enactment. A request for notice under Minnesota Statutes, section 580.032, subdivision 1, filed on or after August 1, 1992, and prior to August 1, 1993, that is not a separate and distinct document, or incorporated in a mechanic's lien statement filed for record pursuant to Minnesota Statutes,

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section 514.08, ceases to be a request for notice on June 30, 1994, unless a supplemental request for notice that complies with Minnesota Statutes, section 580.032, subdivision 1, and states the recording information, including document number or book and page of the original request for notice, is filed before July 1, 1994.

Presented to the governor March 11, 1993

Signed by the governor March 12, 1993, 2:55 p.m.

CHAPTER 7—H.F.No. 146

An act relating to financial institutions; state banks; regulating the acquisition of a bank or savings association for operation as a detached facility; amending Minnesota Statutes 1992, section 49.34, subdivision 2.

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

Section 1. Minnesota Statutes 1992, section 49.34, subdivision 2, is amended to read:

Subd. 2. **ACQUISITION OF BANK OR SAVINGS ASSOCIATION FOR OPERATION AS DETACHED FACILITY.** (a) ~~Notwithstanding the geographic limitations of subdivision 1, and the distance limitations and consent requirements of section 47.52, a state bank may apply to the commissioner, pursuant to the procedures contained in sections 47.51 to 47.56 and 49.35 to 49.41, to acquire another state bank or national banking association and its detached facilities through merger, consolidation or purchase of assets and assumption of liabilities and operate them as detached facilities of the successor bank if the operation of them otherwise conforms to the limitations of section 47.52.~~

(b) ~~In addition to the authority granted in paragraphs (a) and (c), and Notwithstanding the geographic limitations of subdivision 1 and the limitations on number of facilities, distance limitations, and consent requirements contained in section 47.52, a state bank whose main banking office is located within the county of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington may apply to the commissioner, pursuant to the procedures contained in sections 47.51 to 47.56 and 49.35 to 49.41, to acquire another state bank or national banking association and its detached facilities through merger, consolidation, or purchase of assets and assumption of liabilities and operate them as detached facilities of the successor bank if each resulting detached facility is located within the county of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington.~~

(c) ~~(b) Where the commissioner has determined that a merger, consolidation or purchase of assets and assumption of liabilities is necessary and in the public~~

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