

Sec. 3. INCUMBENT TO COMPLETE TERM.

The person elected at the November 1990 general election to the position of recorder shall serve in that capacity and perform the duties, functions, and responsibilities required by statute, until the completion of the term of office to which elected, or until a vacancy occurs in the office, whichever occurs earlier.

Sec. 4. PUBLISHING RESOLUTIONS, PETITION, REFERENDUM.

The county board, before acting as permitted by section 2 and before making an appointment as permitted by section 1 or 2, but after adopting a resolution permitted by section 1 or 2, must publish the resolution once each week for two consecutive weeks in the official publication of the county. The resolution may be implemented without the submission of the question to the voters of the county, unless within 21 days after the second publication of the resolution, a petition requesting a referendum, signed by at least ten percent of the registered voters of the county, is filed with the county auditor. If a petition is filed, the resolution may be implemented unless disapproved by a majority of the voters of the county voting on the question at a regular or special election.

Sec. 5. EFFECTIVE DATE.

This act takes effect the day after the filing of a certificate of local approval by the Koochiching county board in compliance with Minnesota Statutes, section 645.021, subdivision 3.

Presented to the governor April 5, 1994

Signed by the governor April 6, 1994, 11:22 a.m.

CHAPTER 388—S.F.No. 1691

An act relating to real property; clarifying and making technical corrections to statutory provisions relating to real property; allowing the examiner of titles in Olmsted county to be compensated as are examiners in counties of fewer than 75,000 population; amending Minnesota Statutes 1992, sections 14.03, subdivision 3; 83.26, subdivision 2; 500.19, subdivision 4; 507.09; 507.332; 508.12, subdivision 1; 508.13; 508.23, subdivision 1; 508.35; 508.37, subdivision 1a; 508.38; 508.45; 508.47, subdivision 5; 508.51; 508.52; 508.55; 508.58, subdivision 2; 508.68; 508.70; 508.71, subdivision 4; 508A.22, subdivision 1; 508A.35; 508A.38; 508A.45; 508A.47, subdivision 5; 508A.51; 508A.52; 508A.55; 508A.68; 508A.71, subdivision 4; 559.21, subdivisions 3, 4, and 8; and 580.12; Minnesota Statutes 1993 Supplement, section 256B.0595, by adding a subdivision; 508.71, subdivision 7; 515B.1-102; 515B.1-103; 515B.1-105; 515B.1-116; 515B.2-104; 515B.2-105; 515B.2-110; 515B.2-118; 515B.2-119; 515B.3-113; 515B.3-116; and 515B.3-117; proposing coding for new law in Minnesota Statutes, chapters 508; and 508A.

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

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

ARTICLE 1

CONVEYANCING, RECITALS, REDEMPTION

Section 1. Minnesota Statutes 1992, section 14.03, subdivision 3, is amended to read:

Subd. 3. **RULEMAKING PROCEDURES.** The definition of a rule in section 14.02, subdivision 4, does not include:

(1) rules concerning only the internal management of the agency or other agencies that do not directly affect the rights of or procedures available to the public;

(2) rules of the commissioner of corrections relating to the placement and supervision of inmates serving a supervised release term, the internal management of institutions under the commissioner's control, and rules adopted under section 609.105 governing the inmates of those institutions;

(3) rules relating to weight limitations on the use of highways when the substance of the rules is indicated to the public by means of signs;

(4) opinions of the attorney general;

(5) the systems architecture plan and long-range plan of the state education management information system provided by section 121.931;

(6) the data element dictionary and the annual data acquisition calendar of the department of education to the extent provided by section 121.932;

(7) the occupational safety and health standards provided in section 182.655; ~~or~~

(8) revenue notices and tax information bulletins of the commissioner of revenue; or

(9) uniform conveyancing forms adopted by the commissioner of commerce under section 507.09.

Sec. 2. Minnesota Statutes 1993 Supplement, section 256B.0595, is amended by adding a subdivision to read:

Subd. 6. NO BAD EFFECT ON REALTY CONVEYANCE, ENCUMBRANCE. This section does not invalidate or impair the effectiveness of a conveyance or encumbrance of real estate.

Sec. 3. Minnesota Statutes 1992, section 500.19, subdivision 4, is amended to read:

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

Subd. 4. **CONVERTING ESTATES CONVEYING INTEREST DIRECTLY.** ~~An owner (a) Subject to section 507.02 specifying when both spouses must join in a conveyance of their homestead, one or more owners of an interest in real estate may convey all or part of the interest directly to that owner and one or more other persons as joint tenants or as tenants in common or to one or more of themselves, or to any combination of one or more of themselves and other persons.~~

(b) Subject to section 507.02 specifying when both spouses must join in a conveyance of their homestead, conveyances between spouses are allowed under paragraph (a) to the same extent as those between unmarried persons.

Sec. 4. Minnesota Statutes 1992, section 507.09, is amended to read:

507.09 FORMS APPROVED; AMENDMENTS.

The several forms of deeds, mortgages, land contracts, assignments, satisfactions, and other conveyancing instruments prepared by the uniform conveyancing blanks commission and filed by the commission with the secretary of state pursuant to Laws 1929, chapter 135, as amended by Laws 1931, chapter 34, are approved and recommended for use in the state. Such forms shall be kept on file with and be preserved by the commissioner of commerce as a public record. The commissioner of commerce may appoint an advisory task force on uniform conveyancing forms to recommend to the commissioner of commerce amendments to existing forms or the adoption of new forms. The task force shall expire, and the terms, compensation, and removal of members shall be as provided in section 15.059. The commissioner of commerce may adopt amended or new forms consistent with the laws of this state by rule in accordance with chapter 14 by complying with the procedures in section 14.38, subdivision 7, clauses (1), (2), and (3).

Sec. 5. Minnesota Statutes 1992, section 507.332, is amended to read:

507.332 RECITALS IN WRITTEN INSTRUMENTS NOT TO CONSTITUTE NOTICE IN CERTAIN CASES WHETHER RECORDED RECITAL OF UNRECORDED MORTGAGE IS NOTICE.

Subdivision 1. NO NOTICE. Where an instrument affecting the title to real property in this state recites the existence of a mortgage against said real property or some part thereof; where the instrument containing such recital either was recorded prior to 1930 in the office of the county recorder of the county where said real property or some part thereof is situated or was filed prior to said date in a judicial proceeding effecting (affecting) said real property or some part thereof in the district court or probate court of such county; and where the time of the maturity of the whole of the debt secured by said mortgage is not clearly stated in said recital; then such recital may be disregarded and shall not constitute notice of said mortgage; either actual or constructive; to any subsequent purchaser or incumbrancer of said real property or any part thereof.

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

Nothing contained in this section shall affect actions now pending or commenced within six months after the passage of Laws 1947, chapter 626, in any court of this state. A recital of the existence of an unrecorded mortgage in an instrument:

(1) that affects title to real property and

(2) is recorded with the county recorder of the county where the real property is located,

is not actual or constructive notice to a subsequent purchaser or encumbrancer once five years have passed since the date of the instrument containing the recital, unless the conditions in subdivision 2 are met.

Subd. 2. NOTICE. If, in the circumstances described in subdivision 1, an action to foreclose the unrecorded mortgage was commenced and a notice of pendency or notice of lis pendens was recorded during the five-year period, then, the recital is actual or constructive notice of the unrecorded mortgage to a subsequent purchaser or encumbrancer of the real property.

Subd. 3. FORECLOSURE PERIOD UNAFFECTED. This section does not limit or extend the period, set out in section 541.03, to bring an action to foreclose a mortgage.

Subd. 4. NO EFFECT IF LIS PENDENS BEFORE MARCH 1995. This section does not affect a proceeding to foreclose a mortgage pending on the effective date of the amendments made to this section by this act, or to be commenced in a court of this state if, before March 1, 1995, a notice of lis pendens has been recorded in the office of the county recorder or filed in the office of the registrar of titles.

Sec. 6. Minnesota Statutes 1992, section 580.12, is amended to read:

580.12 CERTIFICATE OF SALE; RECORD; EFFECT.

When any sale of real property is made under a power of sale contained in any mortgage, the officer shall make and deliver to the purchaser a certificate, executed in the same manner as a conveyance, containing:

- (1) a description of the mortgage;
- (2) a description of the property sold;
- (3) the price paid for each parcel sold;
- (4) the time and place of the sale, and the name of the purchaser; and
- (5) the time allowed by law for redemption, provided that if the redemption period stated in the certificate is five weeks and a longer redemption period was stated in the published notice of foreclosure sale, a certified copy of the court order entered under section 582.032, authorizing reduction of the redemption period to five weeks, must be attached to the certificate.

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

A certificate which states a five-week redemption period must be recorded within ten days after the sale; any other certificate must be recorded within 20 days after the sale. When so recorded, upon expiration of the time for redemption, the certificate shall operate as a conveyance to the purchaser or the purchaser's assignee of all the right, title, and interest of the mortgagor in and to the premises named therein at the date of such mortgage, without any other conveyance. A certificate must not contain a time allowed for redemption that is less than the time specified by section 580.23, 582.032, or 582.32, whichever applies.

Sec. 7. EFFECTIVE DATE.

Section 2 is effective retroactive to July 1, 1993.

ARTICLE 2

CONTRACTS FOR DEED

Section 1. Minnesota Statutes 1992, section 559.21, subdivision 3, is amended to read:

Subd. 3. For purposes of this section, the term "notice" means a writing stating the information required in this section, stating the name, address and telephone number of the seller or of an attorney authorized by the seller to accept payments pursuant to the notice and the fact that the person named is authorized to receive the payments, stating a mailing address and a street address or location where the seller or the attorney will accept payment pursuant to the notice, and including the following information in 12-point or larger underlined upper-case type, or 8-point type if published, or in large legible handwritten letters:

THIS NOTICE IS TO INFORM YOU THAT BY THIS NOTICE THE SELLER HAS BEGUN PROCEEDINGS UNDER MINNESOTA STATUTES, SECTION 559.21, TO TERMINATE YOUR CONTRACT FOR THE PURCHASE OF YOUR PROPERTY FOR THE REASONS SPECIFIED IN THIS NOTICE. THE CONTRACT WILL TERMINATE DAYS AFTER (SERVICE OF THIS NOTICE UPON YOU) (THE FIRST DATE OF PUBLICATION OF THIS NOTICE) (STRIKE ONE) UNLESS BEFORE THEN:

(a) THE PERSON AUTHORIZED IN THIS NOTICE TO RECEIVE PAYMENTS RECEIVES FROM YOU:

(1) THE AMOUNT THIS NOTICE SAYS YOU OWE; PLUS

(2) THE COSTS OF SERVICE (TO BE SENT TO YOU); PLUS

(3) \$..... TO APPLY TO ATTORNEYS' FEES ACTUALLY EXPENDED OR INCURRED; PLUS

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

(4) FOR CONTRACTS EXECUTED ON OR AFTER MAY 1, 1980, ANY ADDITIONAL PAYMENTS BECOMING DUE UNDER THE CONTRACT TO THE SELLER AFTER THIS NOTICE WAS SERVED ON YOU; PLUS

(5) FOR CONTRACTS, OTHER THAN EARNEST MONEY CONTRACTS, PURCHASE AGREEMENTS, AND EXERCISED OPTIONS, EXECUTED ON OR AFTER AUGUST 1, 1985, \$.... (WHICH IS TWO PERCENT OF THE AMOUNT IN DEFAULT AT THE TIME OF SERVICE OTHER THAN THE FINAL BALLOON PAYMENT, ANY TAXES, ASSESSMENTS, MORTGAGES, OR PRIOR CONTRACTS THAT ARE ASSUMED BY YOU); OR

(b) YOU SECURE FROM A COUNTY OR DISTRICT COURT AN ORDER THAT THE TERMINATION OF THE CONTRACT BE SUSPENDED UNTIL YOUR CLAIMS OR DEFENSES ARE FINALLY DISPOSED OF BY TRIAL, HEARING OR SETTLEMENT. YOUR ACTION MUST SPECIFICALLY STATE THOSE FACTS AND GROUNDS THAT DEMONSTRATE YOUR CLAIMS OR DEFENSES.

IF YOU DO NOT DO ONE OR THE OTHER OF THE ABOVE THINGS WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE, YOUR CONTRACT WILL TERMINATE AT THE END OF THE PERIOD AND YOU WILL LOSE ALL THE MONEY YOU HAVE PAID ON THE CONTRACT; YOU WILL LOSE YOUR RIGHT TO POSSESSION OF THE PROPERTY; YOU MAY LOSE YOUR RIGHT TO ASSERT ANY CLAIMS OR DEFENSES THAT YOU MIGHT HAVE; AND YOU WILL BE EVICTED. IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, CONTACT AN ATTORNEY IMMEDIATELY.

Sec. 2. Minnesota Statutes 1992, section 559.21, subdivision 4, is amended to read:

Subd. 4. **CONTRARY CONTRACTUAL NOTICE; SERVICE; REINSTATEMENT; TERMINATION.** (a) The notice required by this section must be given notwithstanding any provisions in the contract to the contrary, except that earnest money contracts, purchase agreements, and exercised options that are subject to this section may, unless by their terms they provide for a longer termination period, be terminated on 30 days notice. The notice must be served within the state in the same manner as a summons in the district court, and outside of the state, in the same manner, and without securing any sheriff's return of not found, making any preliminary affidavit, mailing a copy of the notice or doing any other preliminary act or thing whatsoever. Service of the notice outside of the state may be proved by the affidavit of the person making the same, made before an authorized officer having a seal, and within the state by such an affidavit or by the return of the sheriff of any county therein.

(b) ~~Three weeks published notice, and if the real estate described in the contract is actually occupied, then in addition thereto, the personal service of a copy of the notice within ten days after the first date of publication of the notice, and~~

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in like manner as the service of a summons in a civil action in the district court, upon the person in possession of the real estate, has the same effect as the personal service of the notice upon the purchaser, or the purchaser's personal representatives or assigns, either within or outside of the state as provided for in this section. In case of service by publication, the published notice shall comply with subdivision 3 and state that the purchaser, or the purchaser's personal representatives or assigns, is allowed 90 days from and after the first date of publication of the notice to comply with the conditions of the contract, and state that the contract will terminate 90 days after the first date of publication of the notice, unless prior to the termination date the purchaser complies with the notice. If a person to be served is a resident individual who has departed from the state, or cannot be found in the state; or is a nonresident individual or a foreign corporation, partnership, or association, service may be made by publication as provided in this paragraph. Three weeks published notice has the same effect as personal service of the notice. The published notice must comply with subdivision 3 and state (1) that the person to be served is allowed 90 days after the first date of publication of the notice to comply with the conditions of the contract, and (2) that the contract will terminate 90 days after the first date of publication of the notice, unless before the termination date the purchaser complies with the notice. If the real estate described in the contract is actually occupied, then, in addition to publication, a person in possession must be personally served, in like manner as the service of a summons in a civil action in state district court, within 30 days after the first date of publication of the notice. If an address of a person to be served is known, then within 30 days after the first date of publication of the notice a copy of the notice must be mailed to the person's last known address by first class mail, postage prepaid.

(c) The contract is reinstated if, within the time mentioned, the person served:

(1) complies with the conditions in default;

(2) if subdivision 1d or 2a applies, makes all payments due and owing to the seller under the contract through the date that payment is made;

(3) pays the costs of service as provided in subdivision 1b, 1c, 1d, or 2a;

(4) if subdivision 2a applies, pays two percent of the amount in default, not including the final balloon payment, any taxes, assessments, mortgages, or prior contracts that are assumed by the purchaser; and

(5) pays attorneys' fees as provided in subdivision 1b, 1c, 1d, or 2a.

(d) The contract is terminated if the provisions of paragraph (c) are not met.

(e) In the event that the notice was not signed by an attorney for the seller and the seller is not present in the state, or cannot be found in the state, then compliance with the conditions specified in the notice may be made by paying to the court administrator of the district court in the county wherein the real estate

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or any part thereof is situated any money due and filing proof of compliance with other defaults specified, and the court administrator of the district court shall be deemed the agent of the seller for such purposes. A copy of the notice with proof of service thereof, and the affidavit of the seller, the seller's agent or attorney, showing that the purchaser has not complied with the terms of the notice, may be recorded with the county recorder, and is prima facie evidence of the facts stated in it; but this section in no case applies to contracts for the sale or conveyance of lands situated in another state or in a foreign country. If the notice is served by publication, the affidavit must state that the affiant believes that the party to be served is not a resident of the state, or cannot be found in the state, and either that the affiant has mailed a copy of the notice by first class mail, postage prepaid, to the party's last known address, or that such address is not known to the affiant.

Sec. 3. Minnesota Statutes 1992, section 559.21, subdivision 8, is amended to read:

Subd. 8. **ATTORNEY AS AGENT FOR SERVICE.** Any attorney expressly authorized by the seller to receive payments in the notice of termination under this section is designated as the attorney who may receive service as agent for the seller of all summons, complaints, orders, and motions made in conjunction with an action by the purchaser to restrain the termination. Service in the action may be made upon the seller by mailing a copy of the process to the seller or to the seller's attorney, by first class mail, postage prepaid, to the address stated in the notice where payments will be accepted.

Sec 4. **EFFECTIVE DATE.**

This article is effective August 1, 1994, and applies to notices first served or published on or after that date.

ARTICLE 3

REGISTERED PROPERTY

A

Section 1. Minnesota Statutes 1992, section 508.12, subdivision 1, is amended to read:

Subdivision 1. **EXAMINER AND DEPUTY EXAMINER.** The judges of the district court shall appoint a competent attorney in each county within their respective districts to be an examiner of titles and legal adviser to the registrar in said county, to which examiner all applications to register title to land are referred without further order, and may appoint attorneys to serve as deputy examiners who shall act in the name of the examiner and under the examiner's supervision and control, and the deputy's acts shall be the acts of the examiners.

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

The examiner of titles and deputy examiners shall hold office subject to the will and discretion of the district court by whom appointed. The examiner's compensation and that of the examiner's deputies shall be fixed and determined by the court and paid in the same manner as the compensation of other county employees is paid except that in all counties having fewer than 75,000 inhabitants, and in Stearns county and Dakota county, and Olmsted counties the fees and compensation of the examiners for services as legal adviser to the registrar shall be determined by the judges of the district court and paid in the same manner as the compensation of other county employees is paid, but in every other instance shall be paid by the person applying to have the person's title registered or for other action or relief which requires the services, certification or approval of the examiner.

B

Sec. 2. Minnesota Statutes 1992, section 508.13, is amended to read:

508.13 REFERENCES TO EXAMINERS; POWERS; REPORTS.

Immediately after the filing of the abstract of title, ~~the court shall enter an order referring the application to an examiner of titles; the court administrator shall refer the file to the examiner of titles,~~ who shall proceed to examine into the title of the land described in the application, and into the truth of all matters set forth therein. The examiner shall ascertain whether or not the land is occupied, and, if occupied, shall ascertain the nature thereof, and by what right the occupation is held. The examiner shall also ascertain whether or not any judgments exist which may be a lien upon the land. The examiner shall search all public records, and fully investigate all facts pertaining to the title which may be brought to the examiner's notice, and shall file in the case a full report thereof, together with the examiner's opinion upon the title. The court shall not be bound by any report of the examiner of titles, but may require further or other proof. An examiner of titles shall have full power to administer oaths and examine witnesses concerning any matter involved in the examiner's investigation of titles. When, in the opinion of the examiner, the state has any interest in, or lien upon, the land, the examiner shall state the nature and character thereof in the examiner's report, and in such cases, the state shall be joined as a party, and named in the summons as a party thereto, in order that its interest, estate or lien may be defined and preserved. The court administrator shall give notice to the applicant of the filing of such report. If the report of the examiner is adverse to the applicant, the applicant shall have a reasonable time in which to proceed further, or to withdraw the application. This election shall be made in writing and filed with the court administrator. Examiners shall, upon the request of the registrar, advise the registrar upon any act or duty pertaining to the conduct of the office, or prepare the form of any memorial to be made or entered by the registrar.

In all cases where under the provisions of this chapter application is made to the court for any order or decree, the court may refer the matter to the exam-

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iner of titles for hearing and report in like manner as herein provided for the reference of the initial application for registration.

C

Sec. 3. Minnesota Statutes 1992, section 508.23, subdivision 1, is amended to read:

Subdivision 1. Every decree of registration shall bear the date, hour, and minute of its entry and be signed by one of the judges of the district court. It shall state ~~the age of the owner of the land whether the owner is 18 years of age or older~~, and whether married, or unmarried, and, if married, the name of the spouse; if the owner of the land is under ~~disability~~ any legal incapacity, it shall state the nature thereof. It shall contain an accurate description of the land as finally determined by the court, and set forth the estate of the owner and also, in such manner as to show their relative priority, all particular estates, mortgages, easements, liens, attachments, and other encumbrances, including spousal rights, if any, to which the land or the owner's estate is subject, and any other facts properly to be determined by the court. Immediately upon the filing of the decree of registration, the court administrator shall file a certified copy thereof with the registrar.

Sec. 4. Minnesota Statutes 1992, section 508A.22, subdivision 1, is amended to read:

Subdivision 1. **DIRECTIVE.** The examiner of titles, upon being satisfied that the applicant is entitled to a CPT, but not earlier than 20 days from the date of mailing of the notice required by section 508A.13, shall issue a written directive to the registrar of titles directing that the first CPT be issued and entered in the name of the applicant, subject only to the following: (a) the exceptions set out in section 508A.25; (b) all outstanding rights, titles, estates, liens, and interests set forth in the examiner's report; and (c) the rights of persons in possession, if any, and any rights which would be disclosed by a survey. The examiner's directive shall contain an accurate description of the land and shall set forth the address of the applicant and, if the applicant be an individual, ~~the applicant's age whether the applicant is 18 years of age or older~~, and whether married or unmarried, and if married, the name of the spouse; if the applicant is under ~~disability~~ any legal incapacity, the nature of it shall be stated. From the date of filing the examiner's directive with the registrar of titles, all instruments affecting title to the land which are registered shall be filed in the office of the registrar of titles and be memorialized upon the CPT.

D

Sec. 5. [508.321] APPEAL FROM REGISTRAR'S DECISIONS.

If the registrar rejects a document for filing, a party in interest may refer the matter to the examiner of titles for review. The examiner of titles may approve the document for filing by endorsing the words "Approved for Filing" on the document. Upon approval, the registrar shall accept the document for filing.

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

Sec. 6. [508A.321] APPEAL FROM REGISTRAR'S DECISIONS.

If the registrar rejects a document for filing, a party in interest may refer the matter to the examiner of titles for review. The examiner of titles may approve the document for filing by endorsing the words "Approved for Filing" on the document. Upon approval, the registrar shall accept the document for filing.

E

Sec. 7. Minnesota Statutes 1992, section 508.35, is amended to read:

508.35 FORM OF CERTIFICATE.

The certificate of title shall contain the name and residence of the owner, a description of the land, and of the estate of the owner therein, and shall by memorial contain a description of all encumbrances, liens, and interests in which the estate of the owner is subject. It shall state the owner's age whether the owner is 18 years of age or older and, if under disability any legal incapacity, the nature of it. It shall also state whether or not the owner is married and, if married, the name of the spouse. In case the land is held in trust or subject to any condition or limitation, it shall state the nature and character of it. It shall be substantially in the following form:

CERTIFICATE OF TITLE

First certificate of title, pursuant to the order of the district court, judicial district, county of, and state of Minnesota, date....., 19.....

REGISTRATION

State of Minnesota)
) ss.
County of

This is to certify that, of residing at, in the of, county of, and state of, is now the owner of an estate, to-wit, of and in the following described land situated in the county of and state of Minnesota, to-wit,
.....

Subject to the encumbrances, liens, and interest noted by the memorial underwritten or endorsed hereon; and subject to the following rights or encumbrances subsisting, as provided in Laws 1905, chapter 305, section 24, namely:

- (1) Liens, claims, or rights arising under the laws or the Constitution of the United States, which the statutes of this state cannot require to appear of record;
(2) Any real property tax or special assessment for which a sale of the land has not been had at the date of the certificate of title;

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(3) Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;

(4) All rights in public highways upon the land;

(5) Such right of appeal or right to appear and contest the application as is allowed by law;

(6) The rights of any person in possession under deed or contract for deed from the owner of the certificate of title;

(7) Any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.

That the said is of the age of years, is married, and is under disability.

That the said (is/is not) of the age of 18 years or older, is under no legal incapacity except, and is (single/married to,,) who (is/is not) of the age of 18 years or older and is under no legal incapacity except

In witness whereof, I have hereunto subscribed my name and affixed the seal of my office, this day of, 19.....

.....

Registrar of Titles, in and for the county of

..... and State of Minnesota.

All certificates issued subsequent to the first certificate of title shall be in like form except that they shall be entitled "Transfer from number (here give the number of the next previous certificate relating to the same land)," and shall also contain the words "Originally registered (date, volume, and page of registration)."

Sec. 8. Minnesota Statutes 1992, section 508A.35, is amended to read:

508A.35 FORMS OF CPT.

The CPT shall contain the name and residence of the owner, a description of the land and of the estate of the owner, and shall by memorial contain a description of all encumbrances, liens, and interests known to the owner to which the estate of the owner is subject. It shall state the owner's age whether the owner is 18 years of age or older and if under ~~disability~~ any legal incapacity, the nature of it. It shall also state whether or not the owner is married and if married, the name of the spouse. In case the land is held in trust or subject to any condition or limitation, it shall state the nature and character of it. It shall be in substantially the following form:

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

CERTIFICATE OF POSSESSORY TITLE (CPT)

First Certificate of Possessory Title, pursuant to the Directive of the Examiner of Titles, County of, and State of Minnesota, date, 19...

Registration of Possessory Title

State of Minnesota)
)ss
County of

This is to certify that, of the of County of, and State of, is now the owner of a fee simple estate, to-wit, Subject to the encumbrances, liens, and interests noted by the memorial underwritten or endorsed hereon; and subject to the following rights or encumbrances subsisting, namely:

- (1) Liens, claims, or rights arising under the laws of the Constitution of the United States, which the statutes of this state cannot require to appear of record;
(2) Any real property tax or special assessment for which a sale of the land has not been had at the date of the CPT;
(3) Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;
(4) All rights in public highways upon the land;
(5) The rights, titles, estates, liens, and interests of any person who has acquired an interest set forth in the Examiner's Supplemental Directive issued pursuant to section 508A.22, subdivision 2;
(6) The rights of any person in possession under deed or contract for deed from the owner of the CPT;
(7) Any claims that may be made pursuant to section 508A.17 within five years from the date the Examiner's Supplemental Directive is filed on the CPT; and
(8) Any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.

In witness whereof, I have hereunto subscribed my name and affixed the seal of my office, this day of, 19...

.....
Registrar of Titles, in and for the
County of and
State of Minnesota.

New language is indicated by underline, deletions by strikeout.

All CPTs issued subsequent to the first shall be in like form except that they shall be entitled "Transfer from number (here give the number of the next previous CPT relating to the same land)," and shall also contain the words "Originally registered (date, volume, and page of registration)."

CPTs shall be indexed and maintained in the same manner as provided for certificates of title under chapter 508.

F

Sec. 9. Minnesota Statutes 1992, section 508.37, subdivision 1a, is amended to read:

Subd. 1a. **BOOKS.** The registrar shall likewise keep tract indexes, in which the registrar shall enter an accurate description of all registered land, together with the names of the respective owners thereof, and a reference to the ~~volume and page of the register of titles in which the same is registered~~ number of the certificate of title. The registrar shall keep two books, to be known as the grantors' and grantees' reception books respectively.

The grantors' reception book shall be a grantors' index of instruments filed with the registrar. Each page shall be divided into columns. The surname and given name of the grantor shall be entered under the first column and under the succeeding columns there shall be entered respectively the name of the grantee; the date of registration, specifying the month, day, year and hour and whether ante meridian or post meridian; the number of the instrument; the book and page of the register of titles where the land is registered; the type of instrument; and a description of the property by lot or section, block or township, range, addition and other pertinent information.

The grantees' reception book shall be a grantees' index of instruments filed with the registrar. Each page shall be divided into columns. The surname and given name of the grantee shall be entered under the first column and under the succeeding columns there shall be entered respectively the name of the grantor; the date of registration, specifying the month, day, year and hour and whether ante meridian or post meridian; the number of the instrument; the book and page of the register of titles where the land is registered; the type of instrument; and a description of the property by lot or section, block or township, range, addition and other pertinent information.

G

Sec. 10. Minnesota Statutes 1992, section 508.38, is amended to read:

508.38 FORMS OF RECORDS ADOPTED.

Every instrument affecting the title to land, filed with the registrar, shall be numbered by the registrar consecutively, and the registrar shall endorse upon the same the number thereof, together with the date, hour, and minute when the

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same is filed, and a reference to its proper certificate of title. Every such instrument shall be retained by the registrar and regarded as registered from the time of filing except that such instruments may be copied or reproduced as provided by section 15.17, as amended, and the copies or reproductions thereof substituted for the originals with the equal force and effect of the same, which originals may be then destroyed as provided by said section 15.17. When the memorial of any instrument is made upon any certificate, the date, number, and time of filing thereof shall likewise be endorsed upon such certificate. All records and papers relating to registered land in the office of the registrar, shall be open to the inspection of the public at such times and under such conditions as the court may prescribe. Duplicates of all instruments, voluntary or involuntary, filed and registered with the registrar, may be presented with the originals, and shall thereupon be ~~attested and sealed by the registrar, and~~ endorsed with the file number, and other memoranda on the originals, and may be attested and sealed by the registrar, and returned to the person presenting the same. The registrar shall furnish certified copies of the instruments filed and registered in the registrar's office, upon payment of a fee as provided in section 357.18. The court shall adopt general forms of memorials and notations to be used by the registrars in registering the common forms of conveyance and other instruments.

Sec. 11. Minnesota Statutes 1992, section 508A.38, is amended to read:

508A.38 FORMS OF RECORDS ADOPTED.

Every instrument affecting the title to land, filed with the registrar pursuant to sections 508A.01 to 508A.85, shall be numbered by the registrar who shall endorse upon it the number of it, together with the date, hour, and minute when the same is filed, and a reference to its proper CPT. Every instrument shall be retained by the registrar and regarded as registered from the time of filing except that the instruments may be copied or reproduced as provided by section 15.17, and the copies or reproductions of them substituted for the originals with the equal force and effect as they have. The originals may be then destroyed as provided by section 15.17. When the memorial of any instrument is made upon any CPT, the date, number, and time of filing of it shall also be endorsed upon the CPT. All records and papers relating to registered land in the office of the registrar shall be open to the inspection of the public at the times and under the conditions as the court may prescribe. Duplicates of all instruments, voluntary or involuntary, filed and registered with the registrar, may be presented with the originals, and shall thereupon be ~~attested and sealed by the registrar, and~~ endorsed with the file number, and other memoranda on the originals, and may be attested and sealed by the registrar, and returned to the person presenting it. The registrar shall furnish certified copies of the instruments filed and registered in the registrar's office, upon payment of a fee as provided in section 357.18. The court shall adopt general forms of memorials and notations to be used by the registrars in registering the common forms of conveyance and other instruments.

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H

Sec. 12. Minnesota Statutes 1992, section 508.45, is amended to read:

508.45 COURT MAY ORDER DUPLICATE CERTIFICATE PRODUCED.

If the registrar of titles is requested to enter a new certificate in pursuance of an instrument which purports to be executed by the registered owner, ~~or by reason of any instrument or proceeding which divests the title of the registered owner against the registered owner's consent,~~ and the outstanding owner's duplicate certificate is not presented for cancellation when such request is made, the registrar of titles shall not enter a new certificate, until authorized so to do by order of the district court. The person who claims to be entitled thereto may make application therefor to the district court, and after due notice and hearing, the court may order the registered owner, or any person withholding the duplicate certificate, to surrender it, and direct the entry of a new certificate upon such surrender. If the person withholding the duplicate certificate is not amenable to the process of the court, or if for any reason the outstanding owner's duplicate certificate cannot be delivered up, the court may by decree annul it, and order a new certificate of title to be entered.

Sec. 13. Minnesota Statutes 1992, section 508A.45, is amended to read:

508A.45 COURT MAY ORDER DUPLICATE CPT PRODUCED.

If the registrar of titles is requested to enter a new CPT in pursuance of an instrument which purports to be executed by the registered owner, ~~or by reason of any instrument or proceeding which divests the title of the registered owner against the registered owner's consent,~~ and the outstanding owner's duplicate CPT is not presented for cancellation when the request is made, the registrar of titles shall not enter a new CPT until authorized so to do by order of the district court. The person who claims to be entitled to it may apply for it to the district court, and after due notice and hearing, the court may order the registered owner, or any person withholding the duplicate CPT, to surrender it, and direct the entry of a new CPT upon the surrender. If the person withholding the duplicate CPT is not amenable to the process of the court, or if for any reason the outstanding owner's duplicate CPT cannot be delivered up, the court may by decree annul it, and order a new CPT to be entered.

I

Sec. 14. Minnesota Statutes 1992, section 508.47, subdivision 5, is amended to read:

Subd. 5. **FILING REGISTERED LAND SURVEY.** The registered land survey shall be filed in the office of the registrar of titles, who shall number each registered land survey, the numbers to run consecutively beginning with the number "1." One copy of each registered land survey shall be retained by the

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registrar of titles as a master copy, one copy filed in a registered land survey register in the registrar's office and made available to the public, and one copy delivered to the county auditor who may thereafter refer to it in connection with the tax descriptions when convenient. Thereafter the tracts in each registered land survey shall be known as Tract, registered land survey No., ~~files of registrar of titles, county of~~, and all conveyances shall describe said property accordingly; but the registrar shall not accept for filing and registration any conveyance of unplatted registered land if the land is described in the conveyance according to a registered land survey which has not been approved as provided in subdivision 4 unless the approval of the body authorized to approve subdivision plats is endorsed thereon or attached thereto.

Sec. 15. Minnesota Statutes 1992, section 508A.47, subdivision 5, is amended to read:

Subd. 5. **FILING REGISTERED LAND SURVEY.** The registered land survey shall be filed in the office of the registrar of titles, who shall number each registered land survey, the numbers to run consecutively beginning with the number "1." One copy of each registered land survey shall be retained by the registrar of titles as a master copy, one copy filed in a registered land survey register in the registrar's office and made available to the public, and one copy delivered to the county auditor who may thereafter refer to it in connection with the tax descriptions when convenient. Thereafter the tracts in each registered land survey shall be known as Tract, registered land survey No., ~~files of registrar of titles, county of~~, and all conveyances shall describe said property accordingly; but the registrar shall not accept for filing and registration any conveyance of unplatted registered land if the land is described in the conveyance according to a registered land survey which has not been approved as provided in subdivision 4 unless the approval of the body authorized to approve subdivision plats is endorsed on it or attached to it.

J

Sec. 16. Minnesota Statutes 1992, section 508.51, is amended to read:

508.51 OWNER'S DUPLICATE PRESENTED; EXCEPTION.

No new certificate of title shall be entered or issued, and no memorial shall be made upon any certificate of title in pursuance of any deed or other voluntary instrument made by the registered owner or the registered owner's attorney-in-fact, unless the owner's duplicate is presented therewith, ~~except in cases provided for in this law or~~ upon the order of the court. When such order is made, a memorial thereof shall be entered, or a new certificate issued as directed thereby. The registrar shall require that the owner's duplicate be presented only when an instrument is submitted for filing that is executed by the registered owner or the registered owner's attorney-in-fact. When any voluntary instrument made by the registered owner or the registered owner's attorney-in-fact is presented for registration the production of the owner's duplicate certificate shall

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authorize the registrar to enter a new certificate or to make a memorial of registration in accordance with such instrument, and the new certificate or memorial shall be binding upon the registered owner and upon all persons claiming under the registered owner in favor of every purchaser for value and in good faith. In all cases of registration which are procured by fraud, the owner may pursue all legal and equitable remedies against the parties to such fraud, without prejudice to the rights of any innocent holder for value of a certificate of title.

Sec. 17. Minnesota Statutes 1992, section 508A.51, is amended to read:

508A.51 OWNER'S DUPLICATE PRESENTED; EXCEPTION.

No new CPT shall be entered or issued, and no memorial shall be made upon any CPT in pursuance of any deed or other voluntary instrument made by the registered owner of the registered owner's attorney-in-fact, unless the owner's duplicate is presented with it, ~~except in cases provided for in sections 508A.01 to 508A.85, or~~ upon the order of the court. When an order or directive is made, a memorial of it shall be entered, or a new CPT issued as directed. The registrar shall require that the owner's duplicate be presented only when an instrument is submitted for filing that is executed by the registered owner or the registered owner's attorney-in-fact. When any voluntary instrument made by the registered owner or the registered owner's attorney-in-fact is presented for registration, the production of the owner's duplicate CPT shall authorize the registrar to enter a new CPT or to make a memorial of registration in accordance with the instrument, and the new CPT or memorial shall be binding upon the registered owner and upon all persons claiming under the registered owner in favor of every purchaser for value and in good faith. In all cases of registration which are procured by fraud, the owner may pursue all legal and equitable remedies against the parties to the fraud, without prejudice to the rights of any innocent holder for value of a CPT.

K

Sec. 18. Minnesota Statutes 1992, section 508.52, is amended to read:

508.52 CONVEYANCE; CANCELLATION OF OLD AND ISSUANCE OF NEW CERTIFICATE.

An owner of registered land who desires to convey the land, or a portion thereof, in fee, shall execute a deed of conveyance, and file the deed, together with the owner's duplicate certificate, with the registrar. The registrar shall require an affidavit by the grantee, or some person in the grantee's behalf, which affidavit shall set forth the name, ~~age,~~ and residence of the grantee, whether the grantee is 18 years of age or older, and whether the grantee is or is not under legal ~~disability~~ incapacity, whether or not married, and, if married, the name of the spouse. The deed of conveyance shall be filed and endorsed with the number and place of registration of the owner's certificate. Before canceling the outstanding certificate of title the registrar shall show by memorial thereon the registration of the deed on the basis of which it is canceled. The encumbrances,

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claims, or interests adverse to the title of the registered owner shall be stated upon the new certificate, except so far as they may be simultaneously released or discharged. The owner's duplicate certificate and the original certificate of title shall be marked "Canceled" by the registrar, who shall enter in the register a new certificate of title to the grantee, and prepare and deliver to the grantee a new owner's duplicate certificate. If a deed in fee is for a portion of the land described in a certificate of title, the memorial of the deed entered by the registrar shall include the legal description contained in the deed and the registrar shall enter a new certificate of title to the grantee for the portion of the land conveyed and, except as otherwise provided in this section, issue a residue certificate of title to the grantor for the portion of the land not conveyed. The registrar shall prepare and deliver to each of the parties a new owner's duplicate certificate for their respective certificates. In lieu of canceling the grantor's certificate of title and issuing a residue certificate and owner's duplicate certificate to the grantor for the portion of the land not conveyed, the registrar may if the grantor's deed does not divide a parcel of unplatted land, and in the absence of a request to the contrary by the registered owner, mark by the land description on both the owner's duplicate certificate of title and the original certificate of title "Part of land conveyed, see memorials". The fee for a residue certificate of title shall be paid to the registrar only when the grantor's certificate of title is canceled after the conveyance by the grantor of a portion of the land described in the grantor's certificate of title. When two or more successive conveyances of the same property are filed for registration on the same day the registrar may enter a certificate in favor of the grantee or grantees in the last of the successive conveyances, and the memorial of the previous deed or deeds entered on the prior certificate of title shall have the same force and effect as though the prior certificate of title had been entered in favor of the grantee or grantees in the earlier deed or deeds in the successive conveyances. The fees for the registration of the earlier deed or deeds shall be the same as the fees prescribed for the entry of memorials. The registrar of titles, with the consent of the transferee, may mark "See memorials for new owner(s)" by the names of the registered owners on both the original certificate of title and the owner's duplicate certificate of title and also add to the memorial of the transferring conveyance a statement that the memorial shall serve in lieu of a new certificate of title in favor of the grantee or grantees therein noted and may refrain from canceling the certificate of title until the time it is canceled by a subsequent transfer, and the memorial showing such transfer of title shall have the same effect as the entry of a new certificate of title for the land described in the certificate of title; the fee for the registration of a conveyance without cancellation of the certificate of title shall be the same as the fee prescribed for the entry of a memorial.

Sec. 19. Minnesota Statutes 1992, section 508A.52, is amended to read:

508A.52 CONVEYANCE; CANCELLATION OF OLD AND ISSUANCE OF NEW CPT.

An owner of land registered under sections 508A.01 to 508A.85 who desires to convey the land, or a portion of it, in fee, shall execute a deed of conveyance,

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and file the deed, together with the owner's duplicate CPT, with the registrar. The registrar shall require an affidavit by the grantee, or some person in the grantee's behalf, which affidavit shall set forth the name, ~~age,~~ and residence of the grantee, whether the grantee is 18 years of age or older, and whether the grantee is or is not under legal ~~disability~~ incapacity, whether or not married, and if married, the name of the spouse. The deed of conveyance shall be filed and endorsed with the number and place of registration of the owner's CPT. Before canceling the outstanding CPT, the registrar shall show by memorial on it the registration of the deed on the basis of which it is canceled. The encumbrances, claims, or interests adverse to the title of the registered owner shall be stated upon the new CPT, except so far as they may be simultaneously released or discharged. The owner's duplicate CPT and the original CPT shall be marked "Canceled" by the registrar, who shall enter in the register a new CPT to the grantee, and prepare and deliver to the grantee a new owner's duplicate CPT. If a deed in fee is for a portion of the land described in a CPT, the memorial of the deed entered by the registrar shall include the legal description contained in the deed and the registrar shall enter a new CPT to the grantee for the portion of the land conveyed and, except as otherwise provided in this section, issue a residue CPT to the grantor for the portion of the land not conveyed. The registrar shall prepare and deliver to each of the parties a new owner's duplicate CPT for their respective CPTs. In lieu of canceling the grantor's CPT and issuing a residue CPT and owner's duplicate CPT to the grantor for the portion of the land not conveyed, the registrar may if the grantor's deed does not divide a parcel of unplatted land, and in the absence of a request to the contrary by the registered owner, mark by the land description on both the owner's duplicate CPT and the original CPT "Part of land conveyed, see memorials." The fee for a residue CPT shall be paid to the registrar only when the grantor's CPT is canceled after the conveyance by the grantor of a portion of the land described in the grantor's CPT. When two or more successive conveyances of the same property are filed for registration on the same day the registrar may enter a CPT in favor of the grantee or grantees in the last of the successive conveyances, and the memorial of the previous deed or deeds entered on the prior CPT shall have the same force and effect as though the prior CPT had been entered in favor of the grantee or grantees in the earlier deed or deeds in the successive conveyances. The fees for the registration of the earlier deed or deeds shall be the same as the fees prescribed for the entry of memorials. The registrar of titles, with the consent of the transferee, may mark "See memorials for new owner(s)" by the names of the registered owners on both the original CPT and the owner's duplicate CPT and also add to the memorial of the transferring conveyance a statement that the memorial shall serve in lieu of a new CPT in favor of the grantee or grantees noted in it and may refrain from canceling the CPT until the time it is canceled by a subsequent transfer, and the memorial showing the transfer of title shall have the same effect as the entry of a new CPT for the land described in the CPT. The fee for the registration of a conveyance without cancellation of the CPT shall be the same as the fee prescribed for the entry of a memorial.

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L

Sec. 20. Minnesota Statutes 1992, section 508.55, is amended to read:

508.55 REGISTRATION OF MORTGAGE; MEMORIAL ENTERED ON CERTIFICATE.

The registration of a mortgage made by the registered owner or the registered owner's attorney-in-fact shall be made in the following manner: The owner's duplicate certificate shall be presented to the registrar, together with the mortgage deed, or other instrument to be registered, and the registrar shall enter upon the original certificate of title and also upon the owner's duplicate certificate a memorial of the purport of the instrument registered, the exact time of filing, and its file number. The registrar shall also note upon the registered instrument the time of filing and a reference to the volume and page where it is registered. The registration of a mortgage made by a party having an interest registered on the certificate of title, other than the registered owner or the registered owner's attorney-in-fact, must be made in the same manner, except that the owner's duplicate certificate need not be presented to the registrar.

Sec. 21. Minnesota Statutes 1992, section 508A.55, is amended to read:

508A.55 REGISTRATION OF MORTGAGE; MEMORIAL ENTERED ON CERTIFICATE.

The registration of a mortgage made by the registered owner or the registered owner's attorney-in-fact shall be made in the following manner: The owner's duplicate CPT shall be presented to the registrar, together with the mortgage deed, or other instrument to be registered, and the registrar shall enter upon the original CPT and also upon the owner's duplicate CPT a memorial of the purport of the instrument registered, the exact time of filing, and its file number. The registrar shall also note upon the registered instrument the time of filing and a reference to the volume and page where it is registered.

M

Sec. 22. Minnesota Statutes 1992, section 508.68, is amended to read:

508.68 DEATH OF OWNER; ISSUANCE OF NEW CERTIFICATES.

When the owner of registered land, or of any estate or interest therein, dies, having devised the same by will, the persons entitled thereto may file with the registrar a certified copy of such will and the personal representative's deed of distribution together with any order of distribution, if there be one, or certified copy of any final decree, if there be one, assigning the same, ~~and the duplicate certificate issued to the testator,~~ and thereupon the registrar shall cancel the ~~duplicate~~ certificate issued to the testator and issue a new ~~duplicate~~ certificate to the persons designated. When the owner of registered land, or of any estate or interest therein, dies, not having devised the same, the persons entitled thereto

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by law may file with the registrar the personal representative's deed of distribution together with a certified copy of any order of distribution, if there be one, or a certified copy of any final decree of the court assigning the same, ~~together with the duplicate certificate issued to the intestate~~; and thereupon the registrar shall cancel the ~~duplicate~~ certificate issued to the intestate and issue a new ~~duplicate~~ certificate to the persons entitled thereto. Unless restricted by letters testamentary or letters of administration, a personal representative may sell, convey, or mortgage registered land in the same manner as if the land were registered in the representative's name. Such personal representative shall first file with the registrar a certified copy of any will of the decedent and a certified copy of the representative's letters.

Sec. 23. Minnesota Statutes 1992, section 508A.68, is amended to read:

508A.68 DEATH OF OWNER; ISSUANCE OF NEW CPTS.

When the owner of land registered under sections 508A.01 to 508A.85, or of any estate or interest in it, dies, having devised the same by will, the persons entitled to it may file with the registrar a certified copy of the will and the personal representative's deed of distribution together with any order of distribution, if there is one, or certified copy of any final decree, if there is one, assigning it; ~~and the duplicate CPT issued to the testator~~. The registrar shall then cancel the ~~duplicate~~ CPT issued to the testator and issue a new ~~duplicate~~ CPT to the persons designated. When the owner of land registered under sections 508A.01 to 508A.85, or of any estate or interest therein, dies, not having devised it, the persons entitled to it by law may file with the registrar the personal representative's deed of distribution together with a certified copy of any order of distribution, if there be one, or a certified copy of any final decree of the court assigning it; ~~together with the duplicate CPT issued to the intestate~~. The registrar shall then cancel the ~~duplicate~~ CPT issued to the intestate and issue a new ~~duplicate~~ CPT to the persons entitled to it. Unless restricted by letters of testamentary or letters of administration, a personal representative may sell, convey, or mortgage land registered under sections 508A.01 to 508A.85 in the same manner as if the land were registered in the representative's name. The personal representative shall first file with the registrar a certified copy of any will of the decedent and a certified copy of the representative's letters.

N

Sec. 24. Minnesota Statutes 1992, section 508.70, is amended to read:

508.70 SUBSEQUENT HOW TO MAKE ADVERSE CLAIM; HOW REGISTERED; COSTS AFTER REGISTRATION.

Subdivision 1. PROCEDURE; COSTS. Any person claiming any right, title, or interest in registered land adverse to the registered owner ~~thereof~~ arising subsequent to the date of the original registration, may, if no other provision is made in this chapter for registering the same, file with the registrar a verified statement in writing setting forth fully the alleged right or interest, and how or

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from whom it was acquired, and a reference to the volume and page of the certificate of title of the registered owner, together with a description of the land, the adverse claimant's residence, and designating a place at which all notices may be served upon the adverse claimant. Such statement shall be entitled to registration as an adverse claim, and the court, upon the petition of any party in interest, shall grant a speedy hearing upon the validity of such adverse claim and enter such decision and decree therein as justice and equity may require. If the adverse claim is adjudged to be invalid, the registration thereof shall be canceled. The court may, in any case, award such costs and damages, including a reasonable attorney's fee, as it may deem just.

Subd. 2. TEN-YEAR LIMIT UNLESS NEW FILING. On and after March 1, 1995, no adverse claim statement shall be notice, either actual or constructive, of any matters referred to in the statement after it has been of record for ten years unless a new statement re-alleging the facts is filed within the ten-year period upon the affected certificate of title or unless a certified copy of a petition in a subsequent proceeding or a notice of lis pendens to adjudicate the matters alleged in the statement is filed within the ten-year period. The registrar of titles shall not carry forward to new certificates of title the memorial of any statement of adverse claim that has terminated as notice pursuant to this subdivision.

O

Sec. 25. Minnesota Statutes 1992, section 508.71, subdivision 4, is amended to read:

Subd. 4. REGISTRATION OF MEMORIALS. Without order of court or directive of the examiner, the registrar of titles may receive and register as memorials upon any certificate of title to which they pertain, the following instruments: receipt or certificate of county treasurer showing redemption from any tax sale or payment of any tax described in a certificate of title, a state deed issued to purchaser of tax-forfeited land, a certified copy of a marriage certificate showing the subsequent marriage of any ~~owner~~ party shown by a certificate of title to be unmarried, a certified copy of a final decree of divorce or dissolution of a marriage entered in the state of Minnesota, or in any state, territory or possession of the United States, or the District of Columbia to establish the dissolution of a marriage relationship of any party shown on the certificate to be married, and a certified copy of the death certificate of party listed in any certificate of title as being the spouse of the registered owner when accompanied by an affidavit satisfactory to the registrar identifying the decedent with the spouse. In all subsequent dealings with the land covered by the certificates, the registrar shall give full faith to these memorials.

Sec. 26. Minnesota Statutes 1992, section 508A.71, subdivision 4, is amended to read:

Subd. 4. POWERS OF REGISTRAR. Without order of court or directive of the examiner the registrar of titles may receive and register as memorials

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upon any CPT to which they pertain, the following instruments; receipt or certificate of county treasurer showing redemption from any tax sale or payment of any tax described in a CPT, a certified copy of a marriage certificate showing the subsequent marriage of any owner party shown by a CPT to be unmarried, a certified copy of a final decree of divorce or dissolution of a marriage entered in the state of Minnesota, or in any state, territory or possession of the United States, or the District of Columbia to establish the dissolution of a marriage relationship of any party shown on the certificate to be married, a certified copy of the death certificate of party listed in any CPT as being the spouse of the registered owner when accompanied by an affidavit satisfactory to the registrar identifying the decedent with the spouse. In all subsequent dealings with the land covered by CPTs the registrar shall give full faith to these memorials.

ARTICLE 4

COMMON INTEREST OWNERSHIP ACT

A

CORRECTIONS AND OTHER CHANGES

Section 1. Minnesota Statutes 1993 Supplement, section 515B.1-102, is amended to read:

515B.1-102 APPLICABILITY.

(a) Except as provided in this section, this chapter, and not chapters 515 and 515A, applies to all common interest communities created within this state on and after June 1, 1994.

(b) The applicability of this chapter to common interest communities created prior to June 1, 1994, shall be as follows:

(1) This chapter shall apply to condominiums created under chapter 515A with respect to events and circumstances occurring on and after June 1, 1994; provided (i) that this chapter shall not invalidate the declarations, bylaws or condominium plats of those condominiums, and (ii) that chapter 515A, and not this chapter, shall govern all rights and obligations of a declarant of a condominium created under chapter 515A, and the rights and claims of unit owners against that declarant.

(2) The following sections shall apply to condominiums created under chapter 515: 515B.1-105 (Separate Titles and Taxation); 515B.1-106 (Applicability of Local Ordinances, Regulations, and Building Codes); 515B.1-107 (Eminent Domain); 515B.1-116 (Recording); 515B.2-103 (Construction and Validity of Declaration and Bylaws); 515B.2-104 (Description of Units); 515B.2-118 (Amendment of Declaration); 515B.3-102 (Powers of Unit Owners' Association);

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515B.3-110 (Voting; Proxies); 515B.3-111 (Tort and Contract Liability); 515B.3-113 (Insurance); 515B.3-116 (Lien for Assessments); 515B.3-117 (Other Liens); 515B.3-118 (Association Records); 515B.3-121 (Accounting Controls); 515B.4-107 (Resale of Units); 515B.4-108 (Purchaser's Right to Cancel Resale); 515B.4-116 (Rights of Action; Attorney's Fees); and 515B.1-103 (Definitions) to the extent necessary in construing any of those sections. The foregoing sections shall apply only with respect to events and circumstances occurring on and after June 1, 1994, and shall not invalidate the declarations, bylaws or condominium plats of those condominiums.

(3) This chapter shall not apply to cooperatives and planned communities created prior to June 1, 1994; except by election pursuant to subsection (d) ~~and except that section 515B.2-118 (Amendment of Declaration) shall apply to all planned communities created in this state prior to June 1, 1994.~~

(c) This chapter shall not invalidate any amendment to the declaration, bylaws or condominium plat of any condominium created under chapter 515 or 515A if the amendment ~~would be permitted by this chapter~~ was recorded before June 1, 1994. Any ~~permitted~~ amendment recorded on or after June 1, 1994, shall be adopted in conformity with the procedures and requirements specified by those instruments and by this chapter. If the amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions contained in this chapter shall also apply to that person.

(d) Any condominium created under chapter 515, any planned community or cooperative which would be exempt from this chapter under subsection (e), or any planned community or cooperative created prior to June 1, 1994, may elect to be subject to this chapter, as follows:

(1) The election shall be accomplished by recording a declaration or amended declaration, and approving bylaws or amended bylaws, which conform to the requirements of this chapter, and which, in the case of amendments, are adopted in conformity with the procedures and requirements specified by the existing declaration and bylaws of the common interest community, and by any applicable statutes.

(2) An amended CIC plat shall not be required unless the amended declaration or bylaws contain provisions inconsistent with the existing CIC plat; provided, that the recording officer shall index or cross-reference the CIC number to any existing CIC plat.

(3) ~~Except as otherwise expressly permitted under this chapter, no amendment may (i) create or increase special declarant rights; (ii) increase the number of units; (iii) convert common elements to limited common elements; or (iv) change the boundaries of a unit, a unit's allocated interests, or the residential or nonresidential use of a unit, in the absence of unanimous written agreement of all unit owners and mortgagees holding first liens on units. The amendment shall conform to the requirements of section 515B.2-118(d).~~

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(4) Except as permitted by paragraph (3), no declarant, affiliate of declarant, association, master association nor unit owner may acquire, increase, waive, reduce or revoke any previously existing warranty rights or causes of action that one of said persons has against any other of said persons by reason of exercising the right of election under this subsection.

(5) A common interest community which elects to be subject to this chapter may, as a part of the election process, change its form of ownership by complying with the requirements of section 515B.2-123.

(e) Except as otherwise provided in this subsection, this chapter shall not apply, except by election pursuant to subsection (d), to the following:

(1) a planned community or cooperative which consists of 12 or fewer units subject to the same declaration, which is not subject to any rights to add additional real estate and which will not be subject to a master association;

(2) a common interest community where the units consist solely of separate parcels of real estate designed or utilized for detached single family dwellings or agricultural purposes, and where the association has no obligation to maintain any building containing a dwelling or any agricultural building;

(3) a planned community or cooperative where, at the time of creation of the planned community or cooperative, the unit owners' interests in the dwellings consist solely of leasehold interests having an unexpired term of fewer than 20 years, including renewal options;

(4) a common interest community containing only a combination of dwellings described in paragraphs (2) and (3);

(5) planned communities and cooperatives limited by the declaration to nonresidential use; or

(6) real estate subject only to an instrument or instruments filed primarily for the purpose of creating or modifying rights with respect to access, ditches, drainage or irrigation.

(f) Section 515B.1-106 shall apply to all common interest communities.

Sec. 2. Minnesota Statutes 1993 Supplement, section 515B.1-103, is amended to read:

515B.1-103 DEFINITIONS.

In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this chapter:

(1) "Additional real estate" means real estate that may be added to a flexible common interest community.

(2) "Affiliate of a declarant" means any person who controls, is controlled by, or is under common control with a declarant.

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(A) A person "controls" a declarant if the person (i) is a general partner, officer, director, or employer of the declarant, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the declarant, (iii) controls in any manner the election of a majority of the directors of the declarant, or (iv) has contributed more than 20 percent of the capital of the declarant.

(B) A person "is controlled by" a declarant if the declarant (i) is a general partner, officer, director, or employer of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the person, (iii) controls in any manner the election of a majority of the directors of the person, or (iv) has contributed more than 20 percent of the capital of the person.

(C) Control does not exist if the powers described in this subsection are held solely as a security interest and have not been exercised.

(3) "Allocated interests" means the following interests allocated to each unit: (i) in a condominium, the undivided interest in the common elements, the common expense liability, and votes in the association; (ii) in a cooperative, the common expense liability and the ownership interest and votes in the association; and (iii) in a planned community, the common expense liability and votes in the association.

(4) "Association" means the unit owners' association organized under section 515B.3-101.

(5) "Board" means the body, regardless of name, designated in the articles of incorporation, bylaws or declaration to act on behalf of the association, or on behalf of a master association when so identified.

(6) "CIC plat" means a common interest community plat described in section 515B.2-110.

(7) "Common elements" means all portions of the common interest community other than the units.

(8) "Common expenses" means expenditures made or liabilities incurred by or on behalf of the association, or master association when so identified, together with any allocations to reserves.

(9) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to section 515B.2-108.

(10) "Common interest community" means contiguous or noncontiguous real estate within Minnesota that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their owner-

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ship or occupancy, to pay for (i) real estate taxes levied against; (ii) insurance premiums payable with respect to; (iii) maintenance of; or (iv) construction, maintenance, repair or replacement of; improvements located on one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies.

(11) "Condominium" means a common interest community in which (i) portions of the real estate are designated as units, (ii) the remainder of the real estate is designated for common ownership solely by the owners of the units, and (iii) undivided interests in the common elements are vested in the unit owners.

(12) "Conversion property" means real estate on which is located a building that at any time within two years before creation of the common interest community was occupied as a residence wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.

(13) "Cooperative" means a common interest community in which the real estate is owned by an association, each of whose members is entitled by virtue of the member's ownership interest in the association to a proprietary lease.

(14) "Dealer" means a person in the business of selling units for the person's own account.

(15) "Declarant" means:

(i) if the common interest community has been created, (A) any person who has executed a declaration, or an amendment to a declaration to add additional real estate, except secured parties, persons whose interests in the real estate will not be transferred to unit owners, or, in the case of a leasehold common interest community, a lessor who possesses no special declarant rights and who is not an affiliate of a declarant who possesses special declarant rights, or (B) any person who reserves, or succeeds under section 515B.3-104 to any special declarant rights; or

(ii) any person or persons acting in concert who have offered prior to creation of the common interest community to transfer their interest in a unit to be created and not previously transferred.

(16) "Declaration" means any instrument, however denominated, including any amendment to the instrument, that creates a common interest community.

(17) "Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in the common interest community, but the term does not include the transfer or release of a security interest.

(18) "Flexible common interest community" means a common interest community to which additional real estate may be added.

(19) "Leasehold common interest community" means a common interest

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community in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the common interest community or reduce its size.

(20) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of section 515B.2-102(d) or (f) for the exclusive use of one or more but fewer than all of the units.

(21) "Master association" means an entity that directly or indirectly exercises any of the powers set forth in section 515B.3-102 on behalf of one or more members described in section 515B.2-121(b), (i), (ii) or (iii), whether or not it also exercises those powers on behalf of one or more property owners associations described in section 515B.2-121(b)(iv). An entity hired by an association to perform maintenance, repair, accounting, bookkeeping or management services is not, solely by virtue of that relationship, a master association.

(22) "Period of declarant control" means the time period provided for in section 515B.3-103(c) during which the declarant may appoint and remove officers and directors of the association.

(23) "Person" means an individual, corporation, limited liability company, partnership, trustee under a trust, personal representative, guardian, conservator, government, governmental subdivision or agency, or other legal or commercial entity capable of holding title to real estate.

(24) "Planned community" means a common interest community that is not a condominium or a cooperative. A condominium or cooperative may be a part of a planned community.

(25) "Proprietary lease" means an agreement with a cooperative association whereby a member of the association is entitled to exclusive possession of a unit in the cooperative.

(26) "Purchaser" means a person, other than a declarant, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than (i) a leasehold interest of less than 20 years, including renewal options, or (ii) a security interest.

(27) "Real estate" means any fee simple, leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests that by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" may include spaces with or without upper or lower boundaries, or spaces without physical boundaries.

(28) "Residential use" means use as a dwelling, whether primary, secondary or seasonal, but not transient use such as hotels or motels.

(29) "Secured party" means the person owning a security interest as defined in paragraph (30).

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(30) "Security interest" means a perfected interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a mortgagee's interest in a mortgage, a vendor's interest in a contract for deed, a lessor's interest in a lease intended as security, a holder's interest in a sheriff's certificate of sale during the period of redemption, an assignee's interest in an assignment of leases or rents intended as security, a lender's interest in a cooperative share loan, a pledgee's interest in the pledge of an ownership interest, or any other interest intended as security for an obligation under a written agreement.

(31) "Special declarant rights" means rights reserved in the declaration for the benefit of a declarant to (i) complete improvements indicated on the CIC plat; (ii) add additional real estate to a common interest community; (iii) create units, common elements, or limited common elements within a common interest community; (iv) subdivide units or convert units into common elements, limited common elements and/or units; (v) maintain sales offices, management offices, signs advertising the common interest community, and models; (vi) use easements through the common elements for the purpose of making improvements within the common interest community or any additional real estate; (vii) create a master association and provide for the exercise of authority by the master association over the common interest community or its unit owners; (viii) merge or consolidate a common interest community with another common interest community of the same form of ownership; or (ix) appoint or remove any officer or director of the association or any master association during any period of declarant control.

(32) "Time share" means a right to occupy a unit or any of several units during ~~five~~ three or more separate time periods over a period of a least ~~five~~ three years, including renewal options, whether or not coupled with an estate or interest in a common interest community or a specified portion thereof.

(33) "Unit" means a ~~parcel of real estate within~~ physical portion of a common interest community the boundaries of which ~~parcel~~ are described in the common interest community's declaration and which is intended for separate ownership or separate occupancy pursuant to a proprietary lease.

(34) "Unit identifier" means English letters or Arabic numerals, or a combination thereof, which identify only one unit in a common interest community and which meet the requirements of section 515B.2-104.

(35) "Unit owner" means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold common interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the common interest community, but does not include a secured party. In a common interest community, the declarant is the unit owner of a unit until that unit has been conveyed to another person.

Sec. 3. Minnesota Statutes 1993 Supplement, section 515B.1-105, is amended to read:

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515B.1-105 SEPARATE TITLES AND TAXATION.

(a) In a cooperative:

(1) ~~Each unit, and its allocated interests and right to possession under a proprietary lease, constitutes a separate interest in personal property, or a separate parcel of real estate if so designated by the declaration.~~

(2) The unit owners' interests in units and their allocated interests are wholly personal property, unless the declaration provides that the interests are wholly real estate. The characterization of these interests as real or personal property shall not affect whether homestead exemptions or classifications apply.

(3) (2) The ownership interest in a unit which may be sold, conveyed, voluntarily or involuntarily encumbered, or otherwise transferred by a unit owner, is the right to possession of that unit under a proprietary lease coupled with the allocated interests of that unit, and the association's interest in that unit is not affected by the transaction.

(b) In a condominium or planned community:

(1) Each unit, and its allocated interest in the common elements, constitutes a separate parcel of real estate.

(2) If there is any unit owner other than a declarant, each unit shall be separately taxed and assessed, and no separate tax or assessment may be rendered against any common elements.

(c) If a declaration is recorded prior to 30 days before any installment of real estate taxes becomes payable, the local taxing authority shall split the taxes so payable on the common interest community among the units. Interest and penalties which would otherwise accrue shall not begin to accrue until at least 30 days after the split is accomplished.

(d) A unit used for residential purposes together with not more than three units used for vehicular parking, and their common element interests, shall be treated as one parcel of real estate in determining whether homestead exemptions or classifications apply.

Sec. 4. Minnesota Statutes 1993 Supplement, section 515B.1-116, is amended to read:

515B.1-116 RECORDING.

(a) A declaration, bylaws, any amendment to a declaration or bylaws, and any other instrument affecting a common interest community shall be entitled to be recorded.

(b) The recording officer shall upon request promptly assign a number (CIC number) to a common interest community to be formed or to a common inter-

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est community resulting from the merger of two or more common interest communities.

(c) Documents recorded pursuant to this chapter shall in the case of registered land be filed, and references to the recording of documents shall mean filed in the case of registered land.

(d) Subject to any specific requirements of this chapter, if any document to be recorded pursuant to this chapter requires approval by a certain vote or agreement of the unit owners or secured parties, an affidavit of the secretary of the association stating that the required vote or agreement has occurred shall be attached to the document and shall constitute prima facie evidence of the representations contained therein.

(e) If a common interest community is located on registered land, the recording fee for any document affecting two or more units shall be the then-current fee for registering the document on ~~one certificate~~ the certificates of title for the first ~~ten~~ affected ~~certificate~~ certificates and one-third of the then-current fee for each additional affected certificate. This provision shall not apply to recording fees for deeds of conveyance, with the exception of deeds given pursuant to sections 515B.2-119 and 515B.3-112.

(f) An amendment to or restatement of a declaration or bylaws, or an amended CIC plat, approved by the required vote of unit owners of an association may be recorded without the necessity of paying the current or delinquent taxes on any of the units in the common interest community.

Sec. 5. Minnesota Statutes 1993 Supplement, section 515B.2-104, is amended to read:

515B.2-104 DESCRIPTION OF UNITS.

(a) ~~If the CIC plat in a common interest community complies with section 515B.2-110(e), a description of a unit is legally sufficient if it sets forth (i) the unit identifier of the unit, (ii) the number assigned to the common interest community by the recording officer, and (iii) the county in which the unit is located. In a condominium or cooperative created under this chapter, a unit identifier shall contain no more than six characters, only one of which may be a letter.~~

(b) ~~If the CIC plat for a planned community complies with chapter 505, 508, or 508A, then a description of a unit in the planned community is legally sufficient if it is stated in terms of a plat or registered land survey and contains the common interest community number. A description of a unit is legally sufficient if it sets forth (i) the unit identifier of the unit, (ii) the number assigned to the common interest community by the recording officer, and (iii) the county in which the unit is located.~~

(b) The unit identifier shall be stated in the declaration. If the CIC plat for a planned community complies with chapter 505, 508, or 508A, then the decla-

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ration shall designate the lot, block, and subdivision name, or the tract and registered land survey number, as the unit identifier. In all other planned communities, and in all condominiums and cooperatives created under this chapter, a unit identifier shall contain no more than six characters, only one of which may be a letter.

(c) A description which conforms to the requirements of this section shall be deemed to include all rights, obligations, and interests appurtenant to the unit which were created by the declaration or bylaws, or by this chapter, whether or not those rights, obligations, or interests are expressly described.

(d) If the CIC plat for a planned community complies with section 515B.2-110(c) a description of the common elements is legally sufficient if it sets forth (i) the words "common elements," (ii) the number assigned to the common interest community by the recording officer, and (iii) the county in which the common elements are located. The common elements may consist of separate parcels of real estate, in which case each parcel shall be separately identified on the CIC plat and in any recorded instrument referencing a separate parcel of the common elements.

Sec. 6. Minnesota Statutes 1993 Supplement, section 515B.2-105, is amended to read:

515B.2-105 CONTENTS OF DECLARATION; ALL COMMON INTEREST COMMUNITIES.

(a) The declaration shall contain:

(1) the number of the common interest community, and the names of the common interest community and the association;

(2) a statement that the common interest community is either a condominium, cooperative, or planned community, and whether it is or is not subject to a master association;

(3) a statement that the association has been incorporated and a reference to the statute under which it was incorporated;

(4) a legally sufficient description of the real estate included in the common interest community, including the name of the county, and any appurtenant easements;

(5) a description of the boundaries of each unit created by the declaration and the unit's unit identifier;

(6) in a planned community containing common elements, a legally sufficient description of the common elements;

(7) in a cooperative, a statement as to whether the unit owners' interests in all units and their allocated interests are real estate or personal property;

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(7) (8) an allocation to each unit of the allocated interests in the manner described in section 515B.2-108;

(8) (9) a statement of (i) the total number of units and (ii) which units will be restricted to residential use and which units will be restricted to nonresidential use;

(9) (10) a statement of the maximum number of units which may be created by the subdivision or conversion of units owned by the declarant pursuant to section 515B.2-112;

(10) (11) any material restrictions on use, occupancy, or alienation of the units, or on the sale price of a unit or on the amount that may be received by an owner on sale, condemnation or casualty loss to the unit or to the common interest community, or on termination of the common interest community; provided, that these requirements shall not affect the power of the association to adopt, amend or revoke rules and regulations pursuant to section 515B.3-102;

(11) (12) a statement as to whether time shares are permitted; and

(12) (13) all matters required by sections 515B.1-103(31), Special Declarant Rights; 515B.2-107, Leaseholds; 515B.2-109, Common Elements and Limited Common Elements; 515B.2-110, Common Interest Community Plat; 515B.3-115, Assessments for Common Expenses; and 515B.2-121, Master Associations.

(b) The declaration may contain any other matters the declarant considers appropriate.

Sec. 7. Minnesota Statutes 1993 Supplement, section 515B.2-110, is amended to read:

515B.2-110 COMMON INTEREST COMMUNITY PLAT (CIC PLAT).

(a) The CIC plat is a part of the declaration, but need not be physically attached to the declaration. The CIC plat is required for condominiums and planned communities, and cooperatives in which the unit owners' interests are characterized as real estate. In cooperatives in which the unit owners' interests are characterized as personal property, ~~the declaration shall include, a CIC plat shall not be required.~~ In lieu of a CIC plat, the declaration or any amendment to it creating, converting, or subdividing units in a personal property cooperative shall include an exhibit containing a scale drawing of each building, identifying the building, and showing the perimeter walls of each unit created or changed by the declaration or the amendment, including the unit's unit identifier, and its location within ~~a~~ the building if the building contains more than one unit.

(b) The CIC plat shall contain certifications by a registered professional land surveyor and registered professional architect, as to the parts of the CIC plat prepared by each, that (i) the CIC plat accurately depicts all information required by this section, and (ii) the work was undertaken by, or reviewed and approved by, the certifying land surveyor or architect. The portions of the CIC

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plat depicting the dimensions of the portions of a condominium or cooperative described in subsections (c)(8), (9), (10), and (12), may be prepared by either a land surveyor or an architect. The other portions of the CIC plat shall be prepared only by a land surveyor. Certification by the land surveyor or architect does not constitute a guaranty or warranty of the nature, suitability, or quality of construction of any improvements located or to be located in the common interest community.

(c) A CIC plat for a condominium or cooperative shall show:

(1) the number of the common interest community, and the boundaries, dimensions and a legally sufficient description of the land included therein;

(2) the dimensions and location of all existing, material structural improvements and roadways;

(3) the intended location and dimensions of any contemplated common element improvements to be constructed within the common interest community after the filing of the CIC plat, labeled either "MUST BE BUILT" or "NEED NOT BE BUILT";

(4) the location and dimensions of any additional real estate, labeled as such, and a legally sufficient description of the additional real estate;

(5) the extent of any encroachments by or upon any portion of the common interest community;

(6) the location and dimensions of all recorded easements within the common interest community serving or burdening any portion of the common interest community;

(7) the distance and direction between noncontiguous parcels of real estate;

(8) the location and dimensions of limited common elements, for example, storage lockers, porches, balconies, decks and patios, other than limited common elements described in section 515B.2-102, subsections (b) and (d);

(9) the location and dimensions of the front, rear, and side boundaries of each unit and that unit's unit identifier;

(10) the location and dimensions of the upper and lower boundaries of each unit with reference to an established or assumed datum and that unit's unit identifier;

(11) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as "leasehold real estate";

(12) any units which may be converted by the declarant to create additional units or common elements identified separately.

(d) A CIC plat for a planned community either shall comply with ~~either~~ subsection (c) or it shall:

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- (1) show the number of the common interest community;
- (2) satisfy the requirements of chapter 505, 508, or 508A, as applicable; and
- (3) satisfy the platting requirements of any governmental authority within whose jurisdiction the planned community is located, subject to the limitations set forth in section 515B.1-106.

(e) If a declarant adds additional real estate, the declarant shall record a supplemental CIC plat or plats for the real estate being added, conforming to the requirements of subsections (b) and (c) in the case of a condominium or cooperative, and subsections (b) and (d) in the case of a planned community. If less than all additional real estate is being added, the supplemental CIC plat for a condominium or cooperative shall also show the location and dimensions of the remaining portion.

(f) If a declarant subdivides or converts any unit into two or more units, common elements or limited common elements, the declarant shall record an amendment to the CIC plat showing the location and dimensions of any new units, common elements and limited common elements thus created.

Sec. 8. Minnesota Statutes 1993 Supplement, section 515B.2-118, is amended to read:

515B.2-118 AMENDMENT OF DECLARATION.

(a) Except in cases of amendments that may be executed by a declarant under section 515B.2-111 or 515B.2-112, or by the association and/or certain unit owners under section 515B.2-107, 515B.2-109, 515B.2-112, 515B.2-113, 515B.2-114, or 515B.2-119, and except as limited by subsection (d), the declaration, including any CIC plat, may be amended only by vote or written agreement of unit owners of units to which at least 67 percent of the votes in the association are allocated, or any greater or other requirement the declaration specifies. The declaration may specify a smaller percentage only if all of the units are restricted to nonresidential use.

(b) No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than two years after the amendment is recorded.

(c) Every amendment to the declaration shall be recorded in every county in which any portion of the common interest community is located and is effective only when recorded.

(d) Except as expressly permitted or required by other provisions of this chapter, no amendment may (i) create or increase special declarant rights, (ii) increase the number of units, (iii) change the boundaries of any unit, (iv) change the allocated interests of a unit, (v) change common elements to limited common elements, (vi) change the authorized use of a unit from residential to nonresidential, or conversely, or (vii) change the characterization of the unit owners' interests in a cooperative from real estate to personal property, or conversely,

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in the absence of unanimous written consent of the unit owners.

Sec. 9. Minnesota Statutes 1993 Supplement, section 515B.2-119, is amended to read:

515B.2-119 **TERMINATION OF COMMON INTEREST COMMUNITY.**

(a) A common interest community may be terminated only by agreement of unit owners of units to which at least 80 percent of the votes in the association are allocated, and 80 percent of the first mortgagees of units (each mortgagee having one vote per unit financed), or any larger percentage the declaration specifies. The declaration may specify a smaller percentage only if all of the units are restricted to nonresidential use.

(b) An agreement to terminate shall be evidenced by a written agreement, executed in the same manner as a deed by the number of unit owners and first mortgagees of units required by subsection (a). The agreement shall specify a date after which the agreement shall be void unless recorded before that date. The agreement shall also specify a date by which the termination of the common interest community and the winding up of its affairs must be accomplished. A certificate of termination executed by the association evidencing the termination shall be recorded on or before the termination date, or the agreement to terminate shall be revoked. The agreement to terminate, or a memorandum thereof, and the certificate of termination shall be recorded in every county in which a portion of the common interest community is situated and is effective only upon recording.

(c) In the case of a condominium or planned community containing only units having upper and lower boundaries, a termination agreement may provide that all of the common elements and units of the common interest community must be sold following termination. If, pursuant to the agreement, any real estate in the common interest community is to be sold following termination, the termination agreement shall set forth the minimum terms of sale acceptable to the association.

(d) In the case of a condominium or planned community containing any units not having upper and lower boundaries ~~described in the declaration~~, a termination agreement may provide for sale of the common elements, but it may not require that the units be sold following termination, unless the original declaration provided otherwise or all unit owners whose units are to be sold consent to the sale.

(e) The association, on behalf of the unit owners, shall have authority to contract for the sale of real estate in a common interest community pursuant to this section, subject to the required approval. The agreement to terminate shall be deemed to grant to the association a power of attorney coupled with an interest to effect the conveyance of the real estate on behalf of the holders of all interests in the units, including without limitation the power to execute all instruments of conveyance and related instruments. Until the sale has been com-

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pleted, all instruments in connection with the sale have been executed and the sale proceeds distributed, the association shall continue in existence with all powers it had before termination.

(1) The instrument conveying or creating the interest in the common interest community shall include as exhibits (i) an affidavit of the secretary of the association certifying that the approval required by this section has been obtained and (ii) a schedule of the names of all unit owners in the common interest community as of the date of the approval.

(2) Proceeds of the sale shall be distributed to unit owners and secured parties as their interests may appear, in accordance with subsections (h), (i), (j), and (k).

(3) Unless otherwise specified in the agreement of termination, until the association has conveyed title to the real estate, each unit owner and the unit owner's successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit. During the period of that occupancy, each unit owner and the unit owner's successors in interest remain liable for all assessments and other obligations imposed on unit owners by this chapter, the declaration or the bylaws.

(f) The legal description of the real estate constituting the common interest community shall, upon the date of recording of the certificate of termination referred to in subsection (b), be as follows:

(1) In a planned community, the lot and block description contained in the CIC plat, and any amendments thereto, subject to any subsequent conveyance or taking of a fee interest in any part of the property.

(2) In a condominium or cooperative, the underlying legal description of the real estate as set forth in the declaration creating the common interest community, and any amendments thereto, subject to any subsequent conveyance or taking of a fee interest in any part of the property.

(3) The legal description referred to in this subsection shall apply upon the recording of the certificate of termination. The recording officer for each county in which the common interest community is located shall index the property located in that county in its records under the legal description required by this subsection from and after the date of recording of the certificate of termination. In the case of registered property, the registrar of titles shall cancel the existing certificates of title with respect to the property and issue one or more certificates of title for the property utilizing the legal description required by this subsection.

(g) In a condominium or planned community, if the agreement to terminate provides that the real estate constituting the common interest community is not to be sold following termination, title to the common elements and, in a common interest community containing only units having upper and lower bounda-

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ries described in the declaration, title to all the real estate in the common interest community, vests in the unit owners upon termination as tenants in common in proportion to their respective interest as provided in subsection (k), and liens on the units shift accordingly. While the tenancy in common exists, each unit owner and the unit owner's successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit.

(h) The proceeds of any sale of real estate pursuant to subsection (e), together with the assets of the association, shall be held by the association as trustee for unit owners, secured parties and other holders of liens on the units as their interests may appear. Before distributing any proceeds, the association shall have authority to deduct from the proceeds of sale due with respect to the unit (i) unpaid assessments levied by the association with respect to the unit, (ii) unpaid real estate taxes or special assessments due with respect to the unit, and (iii) the share of expenses of sale and winding up of the association's affairs with respect to the unit.

(i) Following termination of a condominium or planned community, creditors of the association holding liens on the units perfected before termination may enforce those liens in the same manner as any lien holder, in order of priority based upon their times of perfection. All other creditors of the association are to be treated as if they had perfected liens on the units immediately before termination.

(j) In a cooperative, the declaration may provide that all creditors of the association have priority over any interests of unit owners and creditors of unit owners. In that event, following termination, creditors of the association holding liens on the cooperative which were perfected before termination may enforce their liens in the same manner as any lien holder, in order of priority based upon their times of perfection. All other creditors of the association shall be treated as if they had perfected a lien against the cooperative immediately before termination. Unless the declaration provides that all creditors of the association have that priority:

(1) the lien of each creditor of the association which was perfected against the association before termination becomes, upon termination, a lien against each unit owner's interest in the unit as of the date the lien was perfected;

(2) any other creditor of the association is to be treated upon termination as if the creditor had perfected a lien against each unit owner's interest immediately before termination;

(3) the amount of the lien of an association's creditor described in paragraphs (1) and (2) against each of the unit owners' interest shall be proportionate to the ratio which each unit's common expense liability bears to the common expense liability of all of the units;

(4) the lien of each creditor of each unit owner which was perfected before termination continues as a lien against that unit owner's interest in the unit as of the date the lien was perfected; and

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(5) the assets of the association shall be distributed to all unit owners and all lien holders as their interests may appear in the order described in this section. Creditors of the association are not entitled to payment from any unit owner in excess of the amount of the creditor's lien against that unit owner's interest.

(k) The respective interest of unit owners referred to in subsections (e), (f), (g), (h) and (i) are as follows:

(1) Except as provided in paragraph (2), the respective interests of unit owners are the fair market values of their units, allocated interests, and any limited common elements immediately before the termination, as determined by one or more independent appraisers selected by the association. The decision of the independent appraisers must be distributed to the unit owners and becomes final unless disapproved within 30 days after distribution by unit owners of units to which 25 percent of the votes in the association are allocated. The proportion of any unit's interest to that of all units is determined by dividing the fair market value of that unit by the total fair market values of all the units.

(2) If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value thereof before destruction cannot be made, the interests of all unit owners are: (i) in a condominium, their respective common element interests immediately before the termination, (ii) in a cooperative, their respective ownership interests immediately before the termination, and (iii) in a planned community, their respective common expense liabilities immediately before the termination.

(1) In a condominium or planned community, except as provided in subsection (m), foreclosure or enforcement of a lien or encumbrance against the entire common interest community does not terminate, of itself, the common interest community, and foreclosure or enforcement of a lien or encumbrance against a portion of the common interest community does not withdraw that portion from the common interest community.

(m) In a condominium or planned community, if a lien or encumbrance against a portion of the real estate comprising the common interest community has priority over the declaration and the lien or encumbrance has not been partially released, the parties foreclosing the lien or encumbrance, upon foreclosure, may record an instrument excluding the real estate subject to that lien or encumbrance from the common interest community.

(n) Following the termination of a common interest community in accordance with this section, the board of directors of the association shall cause the association to be dissolved in accordance with law.

Sec. 10. Minnesota Statutes 1993 Supplement, section 515B.3-113, is amended to read:

515B.3-113 INSURANCE.

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(a) Commencing not later than the time of the first conveyance of a unit to a unit owner other than a declarant, the association shall maintain, to the extent reasonably available:

(1) subject to subsection (b), property insurance (i) on the common elements and, in a planned community, also on property that must become common elements, (ii) for broad form covered causes of loss, and (iii) in a total amount of not less than the full insurable replacement cost of the insured property, less deductibles, at the time the insurance is purchased and at each renewal date, exclusive of items normally excluded from property policies; and

(2) commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the property in an amount, if any, specified by the common interest community instruments or otherwise deemed sufficient in the judgment of the board, insuring the board, the association, the management agent, and their respective employees, agents and all persons acting as agents. The declarant shall be included as an additional insured in its capacity as a unit owner or board member. The unit owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use or management of the common elements. The insurance shall cover claims of one or more insured parties against other insured parties.

(b) In the case of a common interest community that contains units sharing or having contiguous walls, siding or roofs, the insurance maintained under subsection (a)(1) shall include the units and the common elements. The insurance need not cover improvements and betterments to the units installed by unit owners, but if improvements and betterments are covered, any increased cost may be assessed by the association against the units affected. The association may, in the case of a claim for damage to a unit or units, (i) pay the deductible amount as a common expense, (ii) assess the deductible amount against the units affected in any reasonable manner, or (iii) require the unit owners of the units affected to pay the deductible amount directly.

(c) If the insurance described in subsections (a) and (b) is not reasonably available, the association shall promptly cause notice of that fact to be hand delivered or sent prepaid by United States mail to all unit owners. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance it considers appropriate to protect the association, the unit owners or officers, directors or agents of the association.

(d) Insurance policies carried pursuant to subsections (a) and (b) shall provide that:

(1) each unit owner and secured party is an insured person under the policy with respect to liability arising out of the unit owner's interest in the common elements or membership in the association;

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(2) the insurer waives its right to subrogation under the policy against any unit owner of the condominium or members of the unit owner's household and against the association and members of the board of directors;

(3) no act or omission by any unit owner or secured party, unless acting within the scope of authority on behalf of the association, shall void the policy or be a condition to recovery under the policy; and

(4) if at the time of a loss under the policy there is other insurance in the name of a unit owner covering the same property covered by the policy, the association's policy is primary insurance.

(e) Any loss covered by the property policy under subsection (a)(1) shall be adjusted by and with the association. The insurance proceeds for that loss shall be payable to the association, or to an insurance trustee designated by the association for that purpose. The insurance trustee or the association shall hold any insurance proceeds in trust for unit owners and secured parties as their interests may appear. The proceeds shall be disbursed first for the repair or restoration of the damaged common elements and units. Unit owners and secured parties are not entitled to receive any portion of the proceeds unless there is a surplus of proceeds after the common elements and units have been completely repaired or restored or the common interest community is terminated.

(f) Unit owners may obtain insurance for personal benefit in addition to insurance carried by the association.

(g) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance, upon request, to any unit owner or secured party. The insurance may not be canceled until 30 days after notice of the proposed cancellation has been mailed to the association, each unit owner and each secured party for an obligation to whom certificates of insurance have been issued.

(h) Any portion of the common interest community which is damaged or destroyed as the result of a loss covered by the association's insurance shall be promptly repaired or replaced by the association unless (i) the common interest community is terminated and the association votes not to repair or replace all or part thereof, (ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (iii) 80 percent of the unit owners, including every owner and holder of a first mortgage on a unit or assigned limited common element which will not be rebuilt, vote not to rebuild. The cost of repair or replacement of the common elements in excess of insurance proceeds and reserves shall be paid as a common expense, and the cost of repair of a unit in excess of insurance proceeds shall be paid by the respective unit owner.

(i) If less than the entire common interest community is repaired or replaced, (i) the insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the common interest community, (ii) the insurance proceeds

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attributable to units and limited common elements which are not rebuilt shall be distributed to the owners of those units, including units to which the limited common elements were assigned, and the secured parties of those units, as their interests may appear, and (iii) the remainder of the proceeds shall be distributed to all the unit owners and secured parties as their interests may appear in proportion to their common element interest in the case of a condominium or in proportion to their common expense liability in the case of a planned community or cooperative.

(j) If the unit owners and holders of first mortgages vote not to rebuild a unit, that unit's entire common element interest, votes in the association, and common expense liability are automatically reallocated upon the vote as if the unit had been condemned under section 515B.1-107, and the association shall promptly prepare, execute and record an amendment to the declaration reflecting the reallocations. Notwithstanding the provisions of this subsection, if the common interest community is terminated, insurance proceeds not used for repair or replacement shall be distributed in the same manner as sales proceeds pursuant to section 515B.2-119.

(k) The provisions of this section may be varied or waived in the case of a common interest community in which all units are restricted to nonresidential use.

Sec. 11. Minnesota Statutes 1993 Supplement, section 515B.3-116, is amended to read:

515B.3-116 LIEN FOR ASSESSMENTS.

(a) The association has a lien on a unit for any assessment levied against that unit from the time the assessment becomes due. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due. Unless the declaration otherwise provides, fees, charges, late charges, fines and interest charges pursuant to section 515B.3-102(a)(10), (11) and (12) are liens, and are enforceable as assessments, under this section.

(b) A lien under this section is prior to all other liens and encumbrances on a unit except (i) liens and encumbrances recorded before the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes, or takes subject to, (ii) any first mortgage on the unit, or, in a cooperative, any first security interest encumbering only the unit owner's interest in the unit, and (iii) liens for real estate taxes and other governmental assessments or charges against the unit. If a first mortgage on a unit is foreclosed, the first mortgage was recorded after June 1, 1994, and no owner redeems during the owner's period of redemption provided by chapter 580, 581, or 582, the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage shall take title to the unit subject to unpaid assessments for common expenses levied pursuant to section 515B.3-115(a), (h)(1) to (3), (i), and (l) which became due, without acceleration, during the six months immediately preceding the first day following the

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end of the owner's period of redemption. If a first security interest encumbering a unit owner's interest in a cooperative unit which is personal property is foreclosed, the secured party or the purchaser at the sale shall take title to the unit subject to unpaid assessments for common expenses levied pursuant to section 515B.3-115(a), (h)(1) to (3), (i), and (l) which became due, without acceleration, during the six months immediately preceding the first day following either the date of sale pursuant to section 336.9-504 or the date on which the obligation of the unit owner is discharged pursuant to section 336.9-505. This subsection shall not affect the priority of mechanics' liens.

(c) Recording of the declaration constitutes record notice and perfection of any lien under this section, and no further recordation of any notice of or claim for the lien is required.

(d) Proceedings to enforce an assessment lien shall be instituted within three years after the last installment of the assessment becomes payable, or shall be barred.

(e) The unit owner of a unit at the time an assessment is due shall be personally liable to the association for payment of the assessment levied against the unit. If there are multiple owners of the unit, they shall be jointly and severally liable.

(f) This section does not prohibit actions to recover sums for which subsection (a) creates a lien nor prohibit an association from taking a deed in lieu of foreclosure.

(g) The association shall furnish to a unit owner or the owner's authorized agent upon written request of the unit owner or the authorized agent a statement setting forth the amount of unpaid assessments currently levied against the owner's unit. If the unit owner's interest is real estate, the statement shall be in recordable form. The statement shall be furnished within ten business days after receipt of the request and is binding on the association and every unit owner.

(h) The association's lien may be foreclosed as provided in this subsection.

(1) In a condominium or planned community, the association's lien may be foreclosed in a like manner as a mortgage containing a power of sale pursuant to chapter 580, or by action pursuant to chapter 581. The association shall have a power of sale to foreclose the lien pursuant to chapter 580.

(2) In a cooperative whose unit owners' interests are real estate, the association's lien shall be foreclosed in a like manner as a mortgage on real estate as provided in paragraph (1).

(3) In a cooperative whose unit owners' interests in the units are personal property, the association's lien shall be foreclosed in a like manner as a security interest under article 9 of chapter 336. In any disposition pursuant to section 336.9-504 or retention pursuant to section 336.9-505, the rights of the parties

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shall be the same as those provided by law, except (i) notice of sale, disposition, or retention shall be served on the unit owner 90 days prior to sale, disposition, or retention, (ii) the association shall be entitled to its reasonable costs and attorney fees not exceeding the amount provided by section 582.01, subdivision 1a, (iii) the amount of the association's lien shall be deemed to be adequate consideration for the unit subject to disposition or retention, notwithstanding the value of the unit, and (iv) the notice of sale, disposition, or retention shall contain the following statement in capital letters with the name of the association or secured party filled in:

"THIS IS TO INFORM YOU THAT BY THIS NOTICE (fill in name of association or secured party) HAS BEGUN PROCEEDINGS UNDER MINNESOTA STATUTES, CHAPTER 515B, TO FORECLOSE ON YOUR INTEREST IN YOUR UNIT FOR THE REASON SPECIFIED IN THIS NOTICE. YOUR INTEREST IN YOUR UNIT WILL TERMINATE 90 DAYS AFTER SERVICE OF THIS NOTICE ON YOU UNLESS BEFORE THEN:

(a) THE PERSON AUTHORIZED BY (fill in the name of association or secured party) AND DESCRIBED IN THIS NOTICE TO RECEIVE PAYMENTS RECEIVES FROM YOU:

(1) THE AMOUNT THIS NOTICE SAYS YOU OWE; PLUS

(2) THE COSTS INCURRED TO SERVE THIS NOTICE ON YOU; PLUS

(3) \$500 TO APPLY TO ATTORNEYS FEES ACTUALLY EXPENDED OR INCURRED; PLUS

(4) ANY ADDITIONAL AMOUNTS FOR YOUR UNIT BECOMING DUE TO (fill in name of association or secured party) AFTER THE DATE OF THIS NOTICE; OR

(b) YOU SECURE FROM A DISTRICT COURT AN ORDER THAT THE FORECLOSURE OF YOUR RIGHTS TO YOUR UNIT BE SUSPENDED UNTIL YOUR CLAIMS OR DEFENSES ARE FINALLY DISPOSED OF BY TRIAL, HEARING, OR SETTLEMENT. YOUR ACTION MUST SPECIFICALLY STATE THOSE FACTS AND GROUNDS THAT DEMONSTRATE YOUR CLAIMS OR DEFENSES.

IF YOU DO NOT DO ONE OR THE OTHER OF THE ABOVE THINGS WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE, YOUR OWNERSHIP RIGHTS IN YOUR UNIT WILL TERMINATE AT THE END OF THE PERIOD, YOU WILL LOSE ALL THE MONEY YOU HAVE PAID FOR YOUR UNIT, YOU WILL LOSE YOUR RIGHT TO POSSESSION OF YOUR UNIT, YOU MAY LOSE YOUR RIGHT TO ASSERT ANY CLAIMS OR DEFENSES THAT YOU MIGHT HAVE, AND YOU WILL BE EVICTED. IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, CONTACT AN ATTORNEY IMMEDIATELY."

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(4) In any foreclosure pursuant to chapter 580, 581, or 582, the rights of the parties shall be the same as those provided by law, except (i) the period of redemption for unit owners shall be six months from the date of sale or a lesser period authorized by law, (ii) in a foreclosure by advertisement under chapter 580, the foreclosing party shall be entitled to costs and disbursements of foreclosure, and attorneys fees in the amount provided by section 582.01, subdivision 1a, (iii) in a foreclosure by action under chapter 581, the foreclosing party shall be entitled to costs and disbursements of foreclosure and attorneys fees as the court shall determine, and (iv) the amount of the association's lien shall be deemed to be adequate consideration for the unit subject to foreclosure, notwithstanding the value of the unit.

(i) If a holder of a sheriff's certificate of sale, prior to the expiration of the period of redemption, pays any past due or current assessments, or any other charges lienable as assessments, with respect to the unit described in the sheriff's certificate, then the amount paid shall be a part of the sum required to be paid to redeem under section 582.03.

(j) In a cooperative, following foreclosure, the association may bring an action for unlawful detainer against the unit owner and any persons in possession of the unit, and in that case section 504.02 shall not apply.

(k) An association may assign its lien rights in the same manner as any other secured party.

Sec. 12. Minnesota Statutes 1993 Supplement, section 515B.3-117, is amended to read:

515B.3-117 OTHER LIENS.

(a) Except in a cooperative and except as otherwise provided in this chapter or in a security instrument, an individual unit owner may have the unit owner's unit released from a lien if the unit owner pays the lienholder the portion of the ~~lien~~ amount which the lien secures that is attributable to the unit. Upon the receipt of payment, the lienholder shall promptly deliver to the unit owner a recordable partial satisfaction and release of lien releasing the unit from the lien. The release shall be deemed to include a release of any rights in the common elements appurtenant to the unit. The portion of the amount which a lien secures that is attributable to ~~a unit owner's~~ the unit shall be equal to the total amount of which the lien secures multiplied by a percentage calculated by dividing the common expense liability of attributable to the ~~unit owner's~~ unit by the common expense liability of attributable to all units ~~which are subject to the lien against which the lien has been recorded, or in the case of a lien under subsection (b), the units against which the lien is permitted or required to be recorded.~~ At the request of a lien claimant or unit owners, the association shall provide a written statement of the percentage of common expense liability of attributable to all units ~~subject to a lien.~~ After a unit owner's payment pursuant to this section, the association may not assess the unit for any common expense incurred thereafter in connection with the satisfaction or defense against the lien.

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(b) Labor performed or materials furnished for the improvement of a unit shall be the basis for the filing recording of a lien against that unit pursuant to the provisions of chapter 514 but shall not be the basis for the filing recording of a lien against the common elements. Labor performed or materials furnished for the improvement of common elements, if duly authorized by the association, shall be deemed to be performed or furnished with the express consent of each unit owner, and shall be ~~the basis for the filing of a lien against each unit~~ perfected by recording a lien against all the units in the common interest community pursuant to the provisions of chapter 514, but shall not be the basis for the filing recording of a lien against the common elements. Where a lien is filed recorded against ~~one or more~~ the units for labor performed or material furnished for the improvement of common elements, the association shall be deemed to be the authorized agent of the unit owners for purposes of receiving the ~~notice~~ notices required under ~~section~~ sections 514.011 and 514.08, subdivision 1, clause (2).

(c) A security interest in a cooperative whose unit owners' interests in the units are personal property ~~may~~ shall be perfected by ~~the filing of recording a~~ financing statement in the UCC filing section of the office of the recording officer for the county in which the unit is located. In any disposition by a secured party pursuant to section 336.9-504 or retention pursuant to section 336.9-505, the rights of the parties shall be the same as those provided by law, subject to the exceptions and requirements set forth in section 515B.3-116(h)(3), and except that the unit owner has the right to reinstate the debt owing to the secured party by paying to the secured party, prior to the effective date of the disposition or retention, the amount which would be required to reinstate the debt under section 580.30 if the unit were wholly real estate.

B

CONFORMING CHANGES

Sec. 13. Minnesota Statutes 1992, section 83.26, subdivision 2, is amended to read:

Subd. 2. **GENERALLY; TRANSACTIONS.** Unless the method of offer or sale is adopted for the purpose of evasion of sections 83.20 to 83.42, 83.43 and 83.44, the following transactions are exempt from sections 83.23, 83.24, 83.25, 83.28, 83.29, and 83.30:

(a) the offer or sale of an interest in subdivided land by an owner, other than the subdivider, acting as principal in a single or isolated transaction;

(b) the offer or sale of all of the subdivided lands within a subdivision in a single transaction to any person;

(c) the offer or sale of subdivided land pursuant to an order of competent jurisdiction, other than a court of bankruptcy;

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(d) the offer or sale of subdivided land consisting of not more than ten separate lots, units, parcels, or interests in the aggregate;

(e) the offer or sale of subdivided lands which have been registered under section 83.23, subdivision 2, if there are no more than ten separate lots, units, parcels, or interests remaining to be sold and no material change has occurred in the information on file with the commissioner;

(f) the offer and sale of subdivided land located within the corporate limits of a municipality as defined in section 462.352, subdivision 2, which municipality has adopted subdivision regulations as defined in section 462.352, except those lands described in section 83.20, subdivision 13;

(g) the offer and sale of apartments or ~~econdominiums~~ condominium units as defined in chapters 515 and 515A, and units in common interest communities as defined in chapter 515B;

(h) the offer and sale of subdivided lands used primarily for agricultural purposes provided each parcel is at least ten acres in size;

(i) the offer or sale of improved lots if:

(1) the subdivider has filed with the commissioner, no later than ten business days prior to the date of the first sale, a written notice of its intention to offer or sell improved lots, which notice shall be accompanied by a fee of \$50, together with a copy of the public offering statement accepted by the situs state and the standard purchase agreement which documents are required to be supplied by the subdivider to the purchaser; and

(2) the subdivider deposits all downpayments in an escrow account until all obligations of the subdivider to the purchaser, which are pursuant to the terms of the purchase agreement to be performed prior to the closing, have been performed. The subdivider shall provide the purchaser with a purchase receipt for the downpayment paid, a copy of the escrow agreement and the name, address, and telephone number of the escrow agent. The escrow agent shall be a bank located in Minnesota. All downpayments shall be deposited in the escrow account within two business days after receipt.

The commissioner may by rule or order suspend, revoke, or further condition the exemptions contained in clauses (f), (g), (h), and (i) or may require such further information as may be necessary for the protection of purchasers.

The rulemaking authority in this subdivision does not include emergency rulemaking authority pursuant to chapter 14.

Sec. 14. Minnesota Statutes 1993 Supplement, section 508.71, subdivision 7, is amended to read:

Subd. 7. **CONDOMINIUMS.** Prior to filing with the registrar of titles a declaration or bylaws for a condominium, or an amendment to the declaration adding additional real estate to the condominium; the declarant shall have or

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bylaws, a determination shall be made by an order of court in a proceeding subsequent to initial registration or by a written directive of the examiner of titles that the documents comply with the requirements of the applicable condominium statute.

Sec. 15. **EFFECTIVE DATE.**

This article is effective June 1, 1994.

ARTICLE 5

TERMINATION OF TIME SHARE INTEREST

Section 1. Minnesota Statutes 1992, section 508.58, subdivision 2, is amended to read:

Subd. 2. **EXAMINER OF TITLES DIRECTIVE.** Any person who has become the owner in fee of registered land, or any part of the land, pursuant to a mortgage foreclosure by action under chapter 581 is entitled to a new certificate of title for the land described in the sheriff's certificate of sale or so much of the land as may be described in the certificate of title, after the redemption period expires. The registrar shall enter the new certificate of title and issue a new owner's duplicate certificate only pursuant to the court order provided in subdivision 1 or upon the written directive of the examiner of titles as to the legal sufficiency of the mortgage foreclosure proceeding. The directive of the examiner of titles also must specify the instruments the registrar shall omit from the new certificate of title by virtue of the foreclosure.

At the request of a registered owner or other person in interest, the examiner of titles by a written directive may direct the registrar of titles to show by memorial on a certificate of title that a contract for the conveyance of a time share interest, as defined in section 515B.1-103(32), has been terminated in accordance with chapter 559. The directive also must specify the instruments the registrar shall omit from the next certificate of title because of the cancellation.

Presented to the governor April 5, 1994

Signed by the governor April 7, 1994, 11:02 a.m.

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