

CHAPTER 168—S.F.No. 1231

An act relating to real property; regulating sign and flag display; amending Minnesota Statutes 2004, sections 515.07; 515B.2-103; 515B.3-102; proposing coding for new law in Minnesota Statutes, chapter 500.

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

Section 1. [500.215] LIMITS ON CERTAIN RESIDENTIAL PROPERTY RIGHTS PROHIBITED.

Subdivision 1. GENERAL RULE. (a) Any provision of any deed restriction, subdivision regulation, restrictive covenant, local ordinance, contract, rental agreement or regulation, or homeowners association document that limits the right of an owner or tenant of residential property to display the flag of the United States and the flag of the State of Minnesota is void and unenforceable.

(b) "Homeowners association document" includes the declaration, articles of incorporation, bylaws, and rules and regulations of:

(1) a common interest community, as defined in section 515B.1-103(C)(10), regardless of whether the common interest community is subject to chapter 515B; and

(2) a residential community that is not a common interest community, as defined in section 515B.1-103(C)(10).

Subd. 2. EXCEPTIONS. (a) This section does not prohibit limitations narrowly tailored to protect health or safety.

(b) This section does not prohibit limitations that restrict:

(1) the size of the flag to be displayed to a size customarily used on residential property;

(2) the installation and display of the flag to a portion of the residential property to which the person who displays the flag has exclusive use; or

(3) illuminating the flag.

(c) This section does not prohibit a requirement that the flag be displayed in a legal manner under Minnesota law, that the flag be in good condition and not altered or defaced, or that the flag not be affixed in a permanent manner to that portion of property to be maintained by others or in a way that causes more than inconsequential damage to others' property. A person who causes damage is liable for the repair costs.

Subd. 3. APPLICABILITY. This section applies to all limitations described in subdivision 1 and not excepted in subdivision 2, regardless of whether adopted before, on, or after the effective date of this section.

Subd. 4. RECOVERY OF ATTORNEY FEES. If an owner or tenant of residential property is denied the right provided by this section, the owner or tenant is entitled to recover, from the party who denied the right, reasonable attorney fees and expenses if the owner or tenant prevails in enforcing the right. If a flag is installed or

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displayed in violation of enforceable restrictions or limitations, the party enforcing the restrictions or limitations is entitled to recover, from the party displaying the flag, reasonable attorney fees and expenses if the enforcing party prevails in enforcing the restrictions or limitations.

Sec. 2. Minnesota Statutes 2004, section 515.07, is amended to read:

515.07 COMPLIANCE WITH COVENANTS, BYLAWS, AND RULES.

Each apartment owner shall comply strictly with the bylaws and with the administrative rules adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions, and restrictions set forth in the declaration or in the owner's deed to the apartment. Failure to comply with any of the same shall be ground for an action to recover sums due, for damages or injunctive relief or both maintainable by the manager or board of directors on behalf of the association of apartment owners or, in a proper case, by an aggrieved apartment owner. This chapter is subject to section 500.215.

Sec. 3. Minnesota Statutes 2004, section 515B.2-103, is amended to read:

515B.2-103 CONSTRUCTION AND VALIDITY OF DECLARATION AND BYLAWS.

(a) All provisions of the declaration and bylaws are severable.

(b) The rule against perpetuities may not be applied to defeat any provision of the declaration or this chapter, or any instrument executed pursuant to the declaration or this chapter.

(c) In the event of a conflict between the provisions of the declaration and the bylaws, the declaration prevails except to the extent that the declaration is inconsistent with this chapter.

(d) The declaration and bylaws must comply with section 500.215.

Sec. 4. Minnesota Statutes 2004, section 515B.3-102, is amended to read:

515B.3-102 POWERS OF UNIT OWNERS' ASSOCIATION.

(a) Except as provided in ~~subsection~~ subsections (b) and (c), and subject to the provisions of the declaration or bylaws, the association shall have the power to:

(1) adopt, amend and revoke rules and regulations not inconsistent with the articles of incorporation, bylaws and declaration, as follows: (i) regulating the use of the common elements; (ii) regulating the use of the units, and conduct of unit occupants, which may jeopardize the health, safety or welfare of other occupants, which involves noise or other disturbing activity, or which may damage the common elements or other units; (iii) regulating or prohibiting animals; (iv) regulating changes in the appearance of the common elements and conduct which may damage the common interest community; (v) regulating the exterior appearance of the common interest community, including, for example, balconies and patios, window treatments, and signs and other displays, regardless of whether inside a unit; (vi) implementing the

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articles of incorporation, declaration and bylaws, and exercising the powers granted by this section; and (vii) otherwise facilitating the operation of the common interest community;

(2) adopt and amend budgets for revenues, expenditures and reserves, and levy and collect assessments for common expenses from unit owners;

(3) hire and discharge managing agents and other employees, agents, and independent contractors;

(4) institute, defend, or intervene in litigation or administrative proceedings (i) in its own name on behalf of itself or two or more unit owners on matters affecting the common elements or other matters affecting the common interest community or, (ii) with the consent of the owners of the affected units on matters affecting only those units;

(5) make contracts and incur liabilities;

(6) regulate the use, maintenance, repair, replacement and modification of the common elements and the units;

(7) cause improvements to be made as a part of the common elements, and, in the case of a cooperative, the units;

(8) acquire, hold, encumber, and convey in its own name any right, title, or interest to real estate or personal property, but (i) common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to section 515B.3-112, or (ii) part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to section 515B.3-112;

(9) grant public utility easements through, over or under the common elements, and, subject to approval by resolution of unit owners other than declarant or its affiliates at a meeting duly called, grant other public or private easements, leases and licenses through, over or under the common elements;

(10) impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements, other than limited common elements, and for services provided to unit owners;

(11) impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association;

(12) impose reasonable charges for the review, preparation and recordation of amendments to the declaration, resale certificates required by section 515B.4-107, statements of unpaid assessments, or furnishing copies of association records;

(13) provide for the indemnification of its officers and directors, and maintain directors' and officers' liability insurance;

(14) provide for reasonable procedures governing the conduct of meetings and election of directors;

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(15) exercise any other powers conferred by law, or by the declaration, articles of incorporation or bylaws; and

(16) exercise any other powers necessary and proper for the governance and operation of the association.

(b) Notwithstanding subsection (a) the declaration or bylaws may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

(c) Notwithstanding subsection (a), powers exercised under this section must comply with section 500.215.

Presented to the governor May 31, 2005

Signed by the governor June 2, 2005, 4:55 p.m.

CHAPTER 169—S.F.No. 953

An act relating to local government; increasing and indexing the compensation limit for local government employees; amending Minnesota Statutes 2004, section 43A.17, subdivision 9; repealing Minnesota Statutes 2004, section 356.611, subdivision 1.

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

Section 1. Minnesota Statutes 2004, section 43A.17, subdivision 9, is amended to read:

Subd. 9. **POLITICAL SUBDIVISION COMPENSATION LIMIT.** (a) The salary and the value of all other forms of compensation of a person employed by a political subdivision of this state, excluding a school district, or employed under section 422A.03 may not exceed 95 110 percent of the salary of the governor as set under section 15A.082, except as provided in this subdivision. For purposes of this subdivision, "political subdivision of this state" includes a statutory or home rule charter city, county, town, metropolitan or regional agency, or other political subdivision, but does not include a hospital, clinic, or health maintenance organization owned by such a governmental unit.

(b) Beginning in 2006, the limit in paragraph (a) shall be adjusted annually in January. The limit shall equal the limit for the prior year increased by the percentage increase, if any, in the Consumer Price Index for all-urban consumers from October of the second prior year to October of the immediately prior year.

(c) Deferred compensation and payroll allocations to purchase an individual annuity contract for an employee are included in determining the employee's salary. Other forms of compensation which shall be included to determine an employee's total

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