

CHAPTER 500

ESTATES IN REAL PROPERTY

500.20 Defeasible estates.

500.215 Limits on certain residential property rights prohibited; flag display.

500.20 DEFEASIBLE ESTATES.*[For text of subd 1, see M.S.2004]*

Subd. 2a. Restriction of duration of condition. Except for any right to reenter or to repossess as provided in subdivision 3, all private covenants, conditions, or restrictions created by which the title or use of real property is affected, cease to be valid and operative 30 years after the date of the deed, or other instrument, or the date of the probate of the will, creating them, and may be disregarded.

This subdivision does not apply to covenants, conditions, or restrictions:

(1) that were created before August 1, 1959, under which a person who owns or has an interest in real property against which the covenants, conditions, or restrictions have been filed claims a benefit of the covenant, condition, or restriction if the person records in the office of the county recorder or files in the office of the registrar of titles in the county in which the real estate affected is located, on or before March 30, 1989, a notice sworn to by the claimant or the claimant's agent or attorney: setting forth the name of the claimant; describing the real estate affected; describing the deed, instrument, or will creating the covenant, condition, or restriction; and stating that the covenant, condition, or restriction is not nominal and may not be disregarded under subdivision 1;

(2) that are created by the declaration, bylaws, floor plans, or condominium plat of a condominium created before August 1, 1980, under chapter 515, or created on or after August 1, 1980, under chapter 515A or 515B, or by any amendments of the declaration, bylaws, floor plans, or condominium plat;

(3) that are created by the articles of incorporation, bylaws, or proprietary leases of a cooperative association formed under chapter 308A;

(4) that are created by a declaration or other instrument that authorizes and empowers a corporation of which the qualification for being a stockholder or member is ownership of certain parcels of real estate, to hold title to common real estate for the benefit of the parcels;

(5) that are created by a deed, declaration, reservation, or other instrument by which one or more portions of a building, set of connecting or adjacent buildings, or complex or project of related buildings and structures share support, structural components, ingress and egress, or utility access with another portion or portions;

(6) that were created after July 31, 1959, under which a person who owns or has an interest in real estate against which covenants, conditions, or restrictions have been filed claims a benefit of the covenants, conditions, or restrictions if the person records in the office of the county recorder or files in the office of the registrar of titles in the county in which the real estate affected is located during the period commencing on the 28th anniversary of the date of the deed or instrument, or the date of the probate of the will, creating them and ending on the 30th anniversary, a notice as described in clause (1); or

(7) that are created by a declaration or bylaws of a common interest community created under or governed by chapter 515B, or by any amendments thereto.

A notice filed in accordance with clause (1) or (6) delays application of this subdivision to the covenants, conditions, or restrictions for a period ending on the later of seven years after the date of filing of the notice, or until final judgment is entered in an action to determine the validity of the covenants, conditions, or restrictions,

provided in the case of an action the summons and complaint must be served and a notice of lis pendens must be recorded in the office of the county recorder or filed in the office of the registrar of titles in each county in which the real estate affected is located within seven years after the date of recording or filing of the notice under clause (1) or (6).

County recorders and registrars of titles shall accept for recording or filing a notice conforming with this subdivision and charge a fee corresponding with the fee charged for filing a notice of lis pendens of similar length. The notice may be discharged in the same manner as a notice of lis pendens and when discharged, together with the information included with it, ceases to constitute either actual or constructive notice.

[For text of subd 3, see M.S.2004]

History: 2005 c 119 s 1

500.215 LIMITS ON CERTAIN RESIDENTIAL PROPERTY RIGHTS PROHIBITED; FLAG DISPLAY.

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 August 1, 2005.

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 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.

History: 2005 c 168 s 1