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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

EIGHTY-SEVENTH SESSION

**H. F. No. 1254**

03/21/2011 Authored by Bills, Smith, Rukavina and Kiffmeyer

The bill was read for the first time and referred to the Committee on Civil Law

02/20/2012 Adoption of Report: Pass as Amended and re-referred to the Committee on Commerce and Regulatory Reform without further

recommendation

1.1 A bill for an act  
1.2 relating to real property; expanding and defining certain residential property  
1.3 rights; modifying certain association lien provisions of the Minnesota Common  
1.4 Interest Ownership Act; amending Minnesota Statutes 2010, sections 500.215,  
1.5 subdivision 2; 515B.3-116; proposing coding for new law in Minnesota Statutes,  
1.6 chapter 500.

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

1.8 Section 1. Minnesota Statutes 2010, section 500.215, subdivision 2, is amended to read:

1.9 Subd. 2. **Exceptions.** (a) This section does not prohibit limitations narrowly tailored  
1.10 to protect health or safety.

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

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

1.14 (2) the installation and display of the flag to a portion of the residential property to  
1.15 which the person who displays the flag has exclusive use, provided that a limitation must  
1.16 not restrict the right of an owner of a detached single-family dwelling to install a flagpole  
1.17 on real property to which the owner has exclusive use, subject to clauses (1) and (3); or

1.18 (3) illuminating the flag.

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

2.1       Sec. 2. **[500.216] LIMITS ON CERTAIN RESIDENTIAL PROPERTY RIGHTS**  
2.2 **PROHIBITED; SIGNS.**

2.3       Subdivision 1. **Political campaign signs.** (a) Any provision of any homeowners  
2.4 association document that limits the right of an owner of a townhome or single-family  
2.5 dwelling to display a political campaign sign during the calendar dates specified in section  
2.6 211B.045 is void and unenforceable.

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

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

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

2.13       Subd. 2. **Exceptions.** (a) This section does not prohibit limitations narrowly tailored  
2.14 to protect health or safety.

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

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

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

2.20       (3) illuminating a sign.

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

2.26       Subd. 3. **Recovery of attorney fees.** If an owner of residential property is denied  
2.27 a right provided by this section, the owner is entitled to recover, from the party who  
2.28 denied the right, reasonable attorney fees and expenses if the owner prevails in enforcing  
2.29 the right. If a sign is installed or displayed in violation of an enforceable restriction or  
2.30 limitation, the party enforcing the restriction or limitation is entitled to recover, from the  
2.31 party displaying the sign, reasonable attorney fees and expenses if the enforcing party  
2.32 prevails in enforcing the restriction or limitation.

2.33       Subd. 4. **Applicability.** (a) This section applies to all homeowners association  
2.34 documents executed on or after August 1, 2012.

2.35       (b) An association governed by a homeowners association document executed  
2.36 before August 1, 2012 may retain existing restrictions that conflict with this section by

3.1 affirmative vote of the association, conducted no later than July 30, 2013. If a vote  
3.2 to retain the existing restrictions is unsuccessful or is not conducted by that date, the  
3.3 prohibitions contained in this section apply to the association's homeowners association  
3.4 document effective August 1, 2013.

3.5 Sec. 3. Minnesota Statutes 2010, section 515B.3-116, is amended to read:

3.6 **515B.3-116 LIEN FOR ASSESSMENTS.**

3.7 (a) The association has a lien on a unit for any assessment levied against that unit  
3.8 from the time the assessment becomes due. If an assessment is payable in installments, the  
3.9 full amount of the assessment is a lien from the time the first installment thereof becomes  
3.10 due. Unless the declaration otherwise provides, fees, charges, late charges, ~~fin~~es and  
3.11 interest charges pursuant to section 515B.3-102(a)(10), (11) and (12) are liens, and are  
3.12 enforceable as assessments, under this section. Recording of the declaration constitutes  
3.13 record notice and perfection of any assessment lien under this section, and no further  
3.14 recording of any notice of or claim for the lien is required.

3.15 (b) Subject to subsection (c), a lien under this section is prior to all other liens and  
3.16 encumbrances on a unit except (i) liens and encumbrances recorded before the declaration  
3.17 and, in a cooperative, liens and encumbrances which the association creates, assumes, or  
3.18 takes subject to, (ii) any first mortgage encumbering the fee simple interest in the unit, or,  
3.19 in a cooperative, any first security interest encumbering only the unit owner's interest in  
3.20 the unit, (iii) liens for real estate taxes and other governmental assessments or charges  
3.21 against the unit, and (iv) a master association lien under section 515B.2-121(h). This  
3.22 subsection shall not affect the priority of mechanic's liens.

3.23 (c) If a first mortgage on a unit is foreclosed, the first mortgage was recorded after  
3.24 June 1, 1994, and no owner or person who acquires the owner's interest in the unit redeems  
3.25 pursuant to chapter 580, 581, or 582, the holder of the sheriff's certificate of sale from the  
3.26 foreclosure of the first mortgage or any person who acquires title to the unit by redemption  
3.27 as a junior creditor shall take title to the unit subject to a lien in favor of the association  
3.28 for unpaid assessments for common expenses levied pursuant to section 515B.3-115(a),  
3.29 (e)(1) to (3), (f), and (i) which became due, without acceleration, during the six months  
3.30 immediately preceding the end of the owner's period of redemption. The common  
3.31 expenses shall be based upon the association's then current annual budget, notwithstanding  
3.32 the use of an alternate common expense plan under section 515B.3-115(a)(2). If a first  
3.33 security interest encumbering a unit owner's interest in a cooperative unit which is  
3.34 personal property is foreclosed, the secured party or the purchaser at the sale shall take  
3.35 title to the unit subject to unpaid assessments for common expenses levied pursuant to

4.1 section 515B.3-115(a), (e)(1) to (3), (f), and (i) which became due, without acceleration,  
4.2 during the six months immediately preceding the first day following either the disposition  
4.3 date pursuant to section 336.9-610 or the date on which the obligation of the unit owner is  
4.4 discharged pursuant to section 336.9-622.

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

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

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

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

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

4.19 (1) In a condominium or planned community, the association's lien may be  
4.20 foreclosed in a like manner as a mortgage containing a power of sale pursuant to chapter  
4.21 580, or by action pursuant to chapter 581. The association shall have a power of sale to  
4.22 foreclose the lien pursuant to chapter 580.

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

4.26 (3) In a cooperative whose unit owners' interests in the units are personal property,  
4.27 the association's lien shall be foreclosed in a like manner as a security interest under  
4.28 article 9 of chapter 336. In any disposition pursuant to section 336.9-610 or retention  
4.29 pursuant to sections 336.9-620 to 336.9-622, the rights of the parties shall be the same as  
4.30 those provided by law, except (i) notice of sale, disposition, or retention shall be served on  
4.31 the unit owner 90 days prior to sale, disposition, or retention, (ii) the association shall be  
4.32 entitled to its reasonable costs and attorney fees not exceeding the amount provided by  
4.33 section 582.01, subdivision 1a, (iii) the amount of the association's lien shall be deemed to  
4.34 be adequate consideration for the unit subject to disposition or retention, notwithstanding  
4.35 the value of the unit, and (iv) the notice of sale, disposition, or retention shall contain the

5.1 following statement in capital letters with the name of the association or secured party  
5.2 filled in:

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

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

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

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

5.14 (3) \$500 TO APPLY TO ATTORNEYS FEES ACTUALLY EXPENDED OR  
5.15 INCURRED; PLUS

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

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

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

5.32 (4) In any foreclosure pursuant to chapter 580, 581, or 582, the rights of the parties  
5.33 shall be the same as those provided by law, except (i) the period of redemption for unit  
5.34 owners shall be six months from the date of sale or a lesser period authorized by law, (ii)  
5.35 in a foreclosure by advertisement under chapter 580, the foreclosing party shall be entitled  
5.36 to costs and disbursements of foreclosure and attorneys fees authorized by the declaration

6.1 or bylaws, notwithstanding the provisions of section 582.01, subdivisions 1 and 1a, (iii) in  
6.2 a foreclosure by action under chapter 581, the foreclosing party shall be entitled to costs  
6.3 and disbursements of foreclosure and attorneys fees as the court shall determine, and (iv)  
6.4 the amount of the association's lien shall be deemed to be adequate consideration for the  
6.5 unit subject to foreclosure, notwithstanding the value of the unit.

6.6 (5) Minor violations of the declaration, bylaws, or rules and regulations of  
6.7 the association for which late charges, interest, or fines are imposed under section  
6.8 515B.3-102(a)(11) may not be the basis for initiating a foreclosure proceeding under  
6.9 this section.

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

6.14 (j) In a cooperative, if the unit owner fails to redeem before the expiration of the  
6.15 redemption period in a foreclosure of the association's assessment lien, the association  
6.16 may bring an action for eviction against the unit owner and any persons in possession of  
6.17 the unit, and in that case section 504B.291 shall not apply.

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