

CHAPTER 221—H.F.No. 3073

An act relating to property; modifying certain tax liens upon land; providing for certificates of custodianship; modifying mechanic's lien provisions; modifying certain probate and trust provisions and clarifying the administrative powers of personal representatives to sell, mortgage, or lease property of a decedent; making clarifying, technical, and conforming changes to the Minnesota Common Interest Ownership Act; providing for summary real estate judgments; providing for filing and status of foreign judgments; amending Minnesota Statutes 2004, sections 272.44; 272.45; 514.10; 518.191, subdivisions 2, 4, by adding a subdivision; 524.3-301; 524.3-715; 524.3-803; Minnesota Statutes 2005 Supplement, sections 253B.23, subdivision 2; 515B.1-102; 515B.1-106; 515B.2-101; 515B.2-110; 515B.2-112; 515B.2-121; 515B.3-115; 515B.3-117; 515B.4-101; 515B.4-102; 548.27; proposing coding for new law in Minnesota Statutes, chapter 501B.

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

Section 1. Minnesota Statutes 2005 Supplement, section 253B.23, subdivision 2, is amended to read:

Subd. 2. **Legal results of commitment status.** (a) Except as otherwise provided in this chapter and in sections 246.15 and 246.16, no person by reason of commitment or treatment pursuant to this chapter shall be deprived of any legal right, including but not limited to the right to dispose of property, sue and be sued, execute instruments, make purchases, enter into contractual relationships, vote, and hold a driver's license. Commitment or treatment of any patient pursuant to this chapter is not a judicial determination of legal incompetency except to the extent provided in section 253B.03, subdivision 6.

(b) Proceedings for determination of legal incompetency and the appointment of a guardian for a person subject to commitment under this chapter may be commenced before, during, or after commitment proceedings have been instituted and may be conducted jointly with the commitment proceedings. The court shall notify the head of the treatment facility to which the patient is committed of a finding that the patient is incompetent.

(c) Where the person to be committed is a minor or owns property of value and it appears to the court that the person is not competent to manage a personal estate, the court shall appoint a general ~~or special~~ guardian for the person ~~or a~~ conservator of the person's estate as provided by law.

Sec. 2. Minnesota Statutes 2004, section 272.44, is amended to read:

272.44 TAXES PAID BY LIEN HOLDERS ARE ~~AN ADDITIONAL~~ ADDED TO LIEN.

Any person who has a lien, by mortgage or otherwise, upon any land upon which the taxes have not been paid when they came due, may pay such taxes before or after the same become delinquent, and the interest, penalty, and costs, if any, thereon; and the money so paid shall be ~~an additional~~ added to the lien on such land; and, with the interest thereon at the rate specified in the mortgage ~~or~~, other instrument, or by law, shall be collectible with, as a part of, and in the same manner as the amount secured by the original lien. No interest shall accrue on the taxes so paid by such ~~mortgage~~ lienholder prior to June first of the year in which such taxes become due and payable.

Sec. 3. Minnesota Statutes 2004, section 272.45, is amended to read:

272.45 TAXES PAID BY TENANT, OCCUPANT, OR OTHER PERSON BECOME LIEN, UPON NOTICE FILED WITH COUNTY RECORDER OR REGISTRAR OF TITLES.

When any past due or delinquent tax on land is paid by ~~or collected from~~ any occupant ~~or~~ tenant, or any other person with an interest in the land other than a lien, or a person acting on that person's behalf, which, by agreement or otherwise, ought to have been paid by the owner, lessor, or other party in interest, such occupant, tenant, or other person may recover by action the amount which such owner, lessor, or party in interest ought to have paid, with interest thereon at the rate of 12 percent per annum, or may retain the same from any rent due or accruing from the person to such owner or lessor for land on which such tax is so paid. ~~Any such~~ A person making such a payment under this section may file with the county recorder or registrar of titles of the proper county a notice stating the amount and date of such payment, and whether paid as occupant, tenant, or otherwise stating the interest claimed in the land, with a description of the land against which the taxes were charged; and the same shall thereupon be a lien upon such land in favor of the person paying the same until the same is paid. The county recorder shall record such notice in the ~~book of miscellaneous records~~ indices maintained by the county recorder. The registrar of titles shall record the notice on the certificate of title for the land. Upon the payment of any such lien, the person filing such notice shall satisfy the same of record.

Sec. 4. **[501B.561] CERTIFICATE OF CUSTODIANSHIP.**

Subdivision 1. Contents of certificate. (a) A custodian or the owner of property held in a custodianship, at any time after execution or creation of a custodianship instrument, may execute a certificate of custodianship that sets forth less than all of the provisions of the custodial instrument and any amendments to the instrument. The certificate of custodianship may be used for purposes of selling, conveying, pledging, mortgaging, leasing, or transferring title to any interest in real or personal property. The certificate of custodianship must include:

- (1) the name of the custodianship, if one is given;
- (2) the date of the custodianship instrument;
- (3) the name of each owner of property held in the custodianship;
- (4) the name of each original custodian;
- (5) the name and address of each custodian empowered to act under the custodianship instrument at the time of execution of the certificate;
- (6) the following statement: "The custodians are authorized by the instrument to sell, convey, pledge, mortgage, lease, or transfer title to any interest in real or personal property, except as limited by the following: (if none, so indicate)";
- (7) any other custodianship provisions the custodians or owners of property held in the custodianship include; and
- (8) a statement as to whether the custodianship instrument has terminated or been revoked.

(b) The certificate of custodianship must be upon the representation of the custodians or the owners of property held in the custodianship that the statements contained in the certificate of custodianship are true and correct and that there are no other provisions in the custodianship instrument or amendments to it that limit the powers of the custodianship to sell, convey, pledge, mortgage, lease, or transfer title to interests in real or personal property. The signature of the custodians or the owners of property held in the custodianship must be under oath before a notary public or other official authorized to administer oaths.

(2) either the custodianship has not terminated or been revoked or, if the custodianship has terminated or been revoked, the conveyance described in the affidavit is made pursuant to the provisions of the custodianship;

(3) the powers granted the custodian or custodians extend to the real property described in the affidavit or attachment to the affidavit;

(4) no amendment to the custodianship has been made limiting the power of the custodian or custodians to sell, convey, pledge, mortgage, lease, or transfer title to the real property described in the affidavit or attachment to the affidavit, if any;

(5) the requisite number of custodians have executed and delivered the instrument of conveyance described in the affidavit; and

(6) any necessary court approval of the transaction has been obtained.

The proof is conclusive as to any party relying on the affidavit, except a party dealing directly with the custodian or custodians who has actual knowledge of facts to the contrary.

Subd. 3. **Recording or filing.** An Affidavit of Custodian or Custodians under subdivision 1 may be recorded in the office of the county recorder for any county, or filed with the office of the registrar of titles for any county with respect to registered land described in the affidavit, or in the Certificate of Custodianship or Custodianship Instrument referred to in the affidavit, and may be recorded or filed as a separate document or combined with or attached to an original or certified copy of a Certificate of Custodianship or Custodianship Instrument, and recorded or filed as one document.

Subd. 4. **Application.** (a) Subdivisions 1 to 3 are effective August 1, 2006, but apply to custodianship instruments whenever created or executed.

(b) Subdivisions 1 to 3 apply only to custodianships established under a federal law or under a statute of this or any other state. Subdivisions 1 to 3 do not apply to custodianships governed by chapter 527 or by the similar laws of another state.

Sec. 6. Minnesota Statutes 2004, section 514.10, is amended to read:

514.10 FORECLOSURE OF LIENS.

Such liens may be enforced by action in the district court of the county in which the improved premises or some part thereof are situated, or, if claimed under section 514.04, of any county through or into which the railway or other line extends, which action shall be begun and conducted in the same manner as actions for the foreclosure of mortgages upon real estate, except as herein otherwise provided, but the owner or any person or party having an interest in or lien upon the property against which a lien has been filed under the provisions of this chapter may bring an action to remove the lien in the nature of an action to determine adverse claims and subject to all the provisions of law regarding actions to determine adverse claims.

When an action has been brought, either by the lien claimant to enforce the lien or by the owner, person or party having an interest in or a lien upon the property against which a lien claim has been filed to determine adverse claims, as provided herein, application may be made at any time after such action has been commenced by any of the persons or parties above mentioned to have the property affected by any such lien, released from the lien by giving ten days' notice, or such other and shorter notice as the court may order and direct, to the lien claimant, or the lien claimant's attorney, of intention to apply to the district court for the release of such lien and of the time and place of hearing. Upon a hearing upon an application the court shall fix a sum of money or an amount of a bond from a surety listed on the United States Department of Treasury Circular 570 made payable upon the entry of judgment as provided in this section to be deposited by the applicant with the court administrator of the district court, which sum shall not be less than the aggregate amount of, (1) the amount claimed in the lien statement, (2) \$18 for every \$100 or fraction thereof, to cover

interest, (3) the probable disbursements in an action to enforce the claim for which the lien statement was filed, (4) an amount not less than double the amount of attorneys' fees allowed upon the foreclosure under section 582.01, to cover any allowance the court may make upon the trial for costs and attorneys' fees in the action or upon appeal. Upon making a deposit in the amount so fixed in the order of court, an order shall be made by the court releasing the premises described in the statement thereof from the effect of such lien. The lien claimant shall have the same right of lien against such money or bond deposit as against the property released. The order releasing the lien may be filed in the office of the county recorder or registrar of titles, if registered land, of the county in which the lien statement is recorded or filed, and thereupon the premises affected shall be released therefrom. The court shall by the same order discharge any notice of lis pendens filed in any action in which such lien may be asserted if it appears that all mechanics' liens filed or recorded against the property covered by the lis pendens have been released.

After the release of the property affected, the judgment ordered in any action either to enforce such lien or determine adverse claims and remove such lien, in the event that the lien is established, shall provide that it be paid, and it shall be paid without further proceedings out of the deposit made as provided herein. The judgment of the district court establishing a lien, unless a written notice of intention to appeal therefrom is served on the court administrator of the district court within 30 days from the entry of such judgment, shall be authority to such court administrator to pay the amount specified in such judgment to the persons entitled thereto, or their attorney of record in the action from the amount of money on deposit or to allow the claimant to collect on the bond that has been deposited. The balance of ~~deposits~~ the deposit of money or bond, if any, shall be returned to the depositor. If the lien was not a valid and enforceable one, the judgment shall direct the return of the whole deposit to the depositor unless the claimant obtains judgment against such depositor personally and in such case the judgment shall be paid as hereinbefore specified.

Sec. 7. Minnesota Statutes 2005 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 in this chapter apply to condominiums created under chapter 515: 515B.1-104 (Variation by Agreement); 515B.1-105 (Separate Titles and Taxation); 515B.1-106 (Applicability of Local Ordinances, Regulations, and Building Codes); 515B.1-107 (Eminent Domain); 515B.1-108 (Supplemental General Principles of Law Applicable); 515B.1-109 (Construction Against Implicit Repeal); 515B.1-112 (Unconscionable Agreement or Term of Contract); 515B.1-113 (Obligation of Good Faith); 515B.1-114 (Remedies to be Liberally Administered); 515B.1-115 (Notice); 515B.1-116 (Recording); 515B.2-103 (Construction and Validity of Declaration and Bylaws); 515B.2-104 (Description of Units); 515B.2-108(d) (Allocation of Interests); 515B.2-109(c) (Common Elements and Limited Common Elements); 515B.2-112 (Subdivision or Conversion of Units); 515B.2-113 (Alteration of Units); 515B.2-114 (Relocation of Boundaries Between Adjoining Units); 515B.2-115 (Minor Variations in Boundaries); 515B.2-118 (Amendment of Declaration); 515B.2-119 (Termination of Common Interest Community); 515B.3-102 (Powers of Unit Owners' Association); 515B.3-103(a), (b), and (g) (Board; Directors and Officers; Period of Declarant Control); 515B.3-107 (Upkeep of Common Interest

Community); 515B.3-108 (Meetings); 515B.3-109 (Quorums); 515B.3-110 (Voting; Proxies); 515B.3-111 (Tort and Contract Liability); 515B.3-112 (Conveyance or Encumbrance of Common Elements); 515B.3-113 (Insurance); 515B.3-114 (Reserves; Surplus Funds); 515B.3-115(c), (e), (f), (g), (h), and (i) (Assessments for Common Expenses); 515B.3-116 (Lien for Assessments); 515B.3-117 (Other Liens); 515B.3-118 (Association Records); 515B.3-119 (Association as Trustee); 515B.3-121 (Accounting Controls); 515B.4-107 (Resale of Units); 515B.4-108 (Purchaser's Right to Cancel Resale); and 515B.4-116 (Rights of Action; Attorney's Fees). Section 515B.1-103 (Definitions) shall apply to the extent necessary in construing any of the sections referenced in this section. Sections 515B.1-105, 515B.1-106, 515B.1-107, 515B.1-116, 515B.2-103, 515B.2-104, 515B.2-118, 515B.3-102, 515B.3-110, 515B.3-111, 515B.3-113, 515B.3-116, 515B.3-117, 515B.3-118, 515B.3-121, 515B.4-107, 515B.4-108, and 515B.4-116 apply only with respect to events and circumstances occurring on and after June 1, 1994. All other sections referenced in this section apply only with respect to events and circumstances occurring after July 31, 1999. A section referenced in this section does not invalidate the declarations, bylaws or condominium plats of condominiums created before August 1, 1999. But all sections referenced in this section prevail over the declarations, bylaws, CIC plats, rules and regulations under them, of condominiums created before August 1, 1999, except to the extent that this chapter defers to the declarations, bylaws, CIC plats, or rules and regulations issued under them.

(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 sections 515B.1-116, subsections (a), (c), (d), (e), (f), and (h), 515B.4-107, and 515B.4-108, apply to all planned communities and cooperatives regardless of when they are created, unless they are exempt under subsection (e).

(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 was recorded before June 1, 1994. Any 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 a new or amended CIC plat where required, and by 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) In a condominium, the preexisting condominium plat shall be the CIC plat and an amended CIC plat shall be required only if the amended declaration or bylaws contain provisions inconsistent with the preexisting condominium plat. The condominium's CIC number shall be the apartment ownership number or condominium number originally assigned to it by the recording officer. In a cooperative in which the unit owners' interests are characterized as real estate, a CIC plat shall be required. In a planned community, the preexisting plat recorded pursuant to chapter 505, 508, or 508A, or the part of the plat upon which the common interest community is located, shall be the CIC plat.

(3) The amendment shall comply with section 515B.2-118(a)(3).

(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 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 which consists of two units, which utilizes a common interest community plat complying with section 515B.2-110(d)(1) and (2), which is not subject to any rights to subdivide or convert units or to add additional real estate, and which is not 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 or a master association has no obligation to maintain any building containing a dwelling or any agricultural building;

(3) a cooperative where, at the time of creation of the cooperative, the unit owners' interests in the dwellings as described in the declaration consist solely of proprietary leases having an unexpired term of fewer than 20 years, including renewal options;

(4) planned communities utilizing a common interest community plat complying with section 515B.2-110(d)(1) and (2) and cooperatives, which are limited by the declaration to nonresidential use; or

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

(f) Section 515B.4-101(e) applies to any platted lot or other parcel of real estate that is subject to a master declaration and is not subject to or is exempt from this chapter.

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

Sec. 8. Minnesota Statutes 2005 Supplement, section 515B.1-106, is amended to read:

515B.1-106 APPLICABILITY OF LOCAL REQUIREMENTS.

(a) Except as provided in subsections (b) and (c), a zoning, subdivision, building code, or other real estate use law, ordinance, charter provision, or regulation may not directly or indirectly prohibit the common interest community form of ownership or impose any requirement upon a common interest community, upon the creation or disposition of a common interest community or upon any part of the common interest community conversion process which it would not impose upon a physically similar development under a different form of ownership. Otherwise, no provision of this chapter invalidates or modifies any provision of any zoning, subdivision, building code, or other real estate use law, ordinance, charter provision, or regulation.

(b) Subsection (a) shall not apply to any ordinance, rule, regulation, charter provision or contract provision relating to the financing of housing construction, rehabilitation, or purchases provided by or through a housing finance program established and operated pursuant to state or federal law by a state or local agency or local unit of government.

(c) A statutory or home rule charter city, pursuant to an ordinance or charter provision establishing standards to be applied uniformly within its jurisdiction, may prohibit or impose reasonable conditions upon the conversion of buildings occupied wholly or partially for residential use to the common interest community form of ownership only if there exists within the city a significant shortage of suitable rental dwellings available to low and moderate income individuals or families or to establish or maintain the city's eligibility for any federal or state program providing direct or indirect financial assistance for housing to

the city. Prior to the adoption of an ordinance pursuant to the authority granted in this subsection, the city shall conduct a public hearing. Any ordinance or charter provision adopted pursuant to this subsection shall not apply to any existing or proposed conversion common interest community (i) for which a bona fide loan commitment for a consideration has been issued by a lender and is in effect on the date of adoption of the ordinance or charter provision, or (ii) for which a notice of conversion or intent to convert required by section 515B.4-111, containing a termination of tenancy, has been given to at least 75 percent of the tenants and subtenants in possession prior to the date of adoption of the ordinance or charter provision.

(d) For purposes of providing marketable title, a statement in the declaration that the common interest community is not subject to an ordinance or that any conditions required under an ordinance have been complied with shall be prima facie evidence that the common interest community was not created in violation of the ordinance.

(e) A violation of an ordinance or charter provision adopted pursuant to the provisions of subsection (b) or (c) shall not affect the validity of a common interest community. This subsection shall not be construed to in any way limit the power of a city to enforce the provisions of an ordinance or charter provision adopted pursuant to subsection (b) or (c).

(f) Any ordinance or charter provision enacted hereunder that prohibits the conversion of buildings to the common interest community form of ownership shall not be effective for a period exceeding 18 months.

Sec. 9. Minnesota Statutes 2005 Supplement, section 515B.2-101, is amended to read:

515B.2-101 CREATION OF COMMON INTEREST COMMUNITIES.

(a) On and after June 1, 1994, a common interest community may be created only as follows:

(1) A condominium may be created only by recording a declaration.

(2) A cooperative may be created only by recording a declaration and by recording a conveyance of the real estate subject to that declaration to the association.

(3) A planned community which includes common elements may be created only by simultaneously recording a declaration and a conveyance of the common elements subject to that declaration to the association.

(4) A planned community without common elements may be created only by recording a declaration.

(b) Except as otherwise expressly provided in this chapter, the declaration shall be executed by all persons whose interests in the real estate will be conveyed to unit owners or to the association, except vendors under contracts for deed, and by every lessor of a lease the expiration or termination of which will terminate the common interest community. The declaration shall be recorded in every county in which any portion of the common interest community is located. Failure of any party not required to execute a declaration, but having a recorded interest in the common interest community, to join in the declaration shall have no effect on the validity of the common interest community; provided that the party is not bound by the declaration until that party acknowledges the existence of the common interest community in a recorded instrument.

(c) In a condominium, a planned community utilizing a CIC plat complying with section 515B.2-110(c), or a cooperative, where the unit boundaries are delineated by a structure, a declaration, or an amendment to a declaration adding units, shall not be recorded unless the structural components of the structures containing the units and the mechanical systems serving more than one unit, but not the units, are substantially completed, as evidenced by a recorded certificate executed by a registered engineer or architect.

(d) A project which (i) meets the definition of a "common interest community" in section 515B.1-103(10), (ii) is created after May 31, 1994, and (iii) is not exempt under section 515B.1-102(e), is

subject to this chapter even if this or other sections of the chapter have not been complied with, and the declarant and all unit owners are bound by all requirements and obligations of this chapter.

(e) The association shall be incorporated pursuant to section 515B.3-101 and the CIC plat shall be recorded as and if required by section 515B.2-110.

Sec. 10. Minnesota Statutes 2005 Supplement, section 515B.2-110, is amended to read:

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

(a) A CIC plat is required for condominiums and planned communities, and cooperatives in which the unit owners' interests are characterized as real estate. The CIC plat is a part of the declaration in condominiums, in planned communities utilizing a CIC plat complying with subsection (c), and in cooperatives in which the unit owners' interests are characterized as real estate, but need not be physically attached to the declaration.

(1) In a condominium, or a cooperative in which the unit owners' interests are characterized as real estate, the CIC plat shall comply with subsection (c).

(2) In a planned community, a CIC plat which does not comply with subsection (c) shall consist of all or part of a subdivision plat or ~~plats complying with subsections (d)(1) and (d)(2)~~ registered land survey complying with subsection (d), or any combination thereof. The CIC plat or registered land survey need not contain the number of the common interest community and may be recorded at any time before the recording of the declaration; provided, that if the CIC plat complies with subsection (c), the number of the common interest community shall be included and the CIC plat shall be recorded at the time of recording of the declaration.

(3) In a cooperative in which the unit owners' interests are characterized as personal property, 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 any amendment to it, including the unit's unit identifier, and its location within the building if the building contains more than one unit.

(b) The CIC plat, or supplemental or amended CIC plat, for condominiums, for planned communities using a plat complying with subsection (c), and for cooperatives in which the unit owners' interests are characterized as real estate, shall contain certifications by a licensed professional land surveyor and licensed 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 plat depicting the dimensions of the portions of the common interest community 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. A certification of the CIC plat or supplemental CIC plat, or an amendment to it, under this subsection by an architect is not required if all parts of the CIC plat, supplemental CIC plat, or amendment are prepared 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 a cooperative in which the unit owners' interests are characterized as real estate, 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 land included in the common interest community burdening any portion of the land;

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

(8) the location and dimensions of limited common elements, except that with respect to limited common elements described in section 515B.2-102, subsections (d) and (f), only such material limited common elements as porches, balconies, decks, patios, and garages shall be shown;

(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 subsection (c), or it shall:

(1) comply with chapter 505, 508, or 508A, as applicable; and

(2) comply with the ~~planning~~ applicable subdivision 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 this section which apply to the type of common interest community in question. If less than all additional real estate is being added, the supplemental CIC plat for a condominium, a planned community whose CIC plat complies with subsection (c), or a cooperative in which the unit owners' interests are characterized as real estate, shall also show the location and dimensions of the remaining portion.

(f) If, pursuant to section 515B.2-112, a declarant subdivides or converts any unit into two or more units, common elements or limited common elements, or combines two or more units, the declarant shall record an amendment to the CIC plat showing the location and dimensions of any new units, common elements or limited common elements thus created.

(g) A CIC plat which complies with subsection (c) is not subject to chapter 505.

Sec. 11. Minnesota Statutes 2005 Supplement, section 515B.2-112, is amended to read:

515B.2-112 SUBDIVISION, COMBINATION, OR CONVERSION OF UNITS.

(a) If the declaration so provides, (i) one or more units may be subdivided into two or more units or combined into a lesser number of units, or (ii) a unit or units owned exclusively by a declarant may be

subdivided, combined, or converted into one or more units, limited common elements, common elements, or a combination of units, limited common elements or common elements.

(b) If the unit or units are not owned exclusively by a declarant, the unit owners of the units to be combined or subdivided shall cause to be prepared and submitted to the association for approval an application for an amendment to the declaration and amended CIC plat, for the purpose of subdividing or combining the unit or units. The application shall contain, at a minimum, a general description of the proposed subdivision or combination, and shall specify in detail the matters required by subsection (c)(2) and (3). The basis for disapproval of the application by the association shall be limited to (i) health or safety considerations, (ii) liability considerations for the association and other unit owners, (iii) aesthetic changes to the common elements or another unit, (iv) any material and adverse impact on the common elements or another unit, or (v) a failure to comply with the declaration, this chapter, or governmental laws, ordinances, or regulations. The association shall give written notice of its decision and required changes to the unit owner or owners who made the application. The association shall establish fair and reasonable procedures and time frames for the submission and prompt processing of the applications. If an application under this subsection is approved, the unit owner shall cause an amendment and amended CIC plat to be prepared based upon the approved application.

~~(c) If an application under subsection (b) is approved, the unit owner shall cause an amendment and amended CIC plat to be prepared based upon the approved application. The amendment shall: An amendment under this section shall:~~

~~(1) be executed by the association and by each unit owner and any secured party with respect to each unit to be combined or subdivided, if approved under subsection (b);~~

~~(2) assign a unit identifier to each unit resulting from the subdivision, conversion, or combination;~~

~~(3) reallocate the common element interest, votes in the association, and common expense liability, as applicable, formerly allocated to the unit or units to be combined, converted, or subdivided among the unit or units resulting from the subdivision or combination, or among all units in the case of a conversion, as applicable, on the basis of the formula described in the declaration; and~~

~~(4) conform to the requirements of the declaration and this chapter.~~

(d) If the association determines that the amendment and amended CIC plat conform to the approved application, the declaration, and this chapter, the association shall execute the amendment and cause the amendment and the amended CIC plat to be recorded. The association may require the unit owners executing the amendment to pay all fees and costs for reviewing, preparing, and recording the amendment and the amended CIC plat, and any other fees or costs incurred by the association in connection therewith.

(e) If the unit or units are owned exclusively by a declarant, the declarant shall have the authority to unilaterally prepare and record, at its expense, an amendment and an amended CIC plat subdividing, combining, or converting the unit or units. The amendment shall comply with subsections (c)~~(1)~~, (2), (3), and (4), and shall be limited to those provisions necessary to accomplish the subdivision, combination, or conversion unless the consent of unit owners required to amend the declaration is obtained.

(f) The amended CIC plat shall show the resulting common elements, limited common elements or units, as subdivided, combined, or converted.

(g) A secured party's interest and remedies shall be deemed to apply to the unit or units that result from the subdivision or combination of the unit or units in which the secured party held a security interest. If the secured party enforces any remedy, including foreclosure of its lien, against any of the resulting units, all instruments and notices relating to the foreclosure shall describe the subject property in terms of the amendment and the amended CIC plat which created the resulting units.

Sec. 12. Minnesota Statutes 2005 Supplement, section 515B.2-121, is amended to read:

515B.2-121 MASTER ASSOCIATIONS.

(a) A master association formed after June 1, 1994, shall be organized as a Minnesota profit, nonprofit or cooperative corporation. A master association shall be incorporated prior to the delegation to it of any powers under this chapter.

(b) The members of the master association shall be any combination of (i) unit owners of one or more common interest communities, (ii) one or more associations, (iii) one or more master associations, or (iv) owners of real estate or property owner's associations not subject to this chapter in combination with any other category of member. An association or its members may be members of an entity created before June 1, 1994, which performs functions similar to those performed by a master association regardless of whether the entity is subject to this chapter.

(c) A master association shall be governed by a board of directors. Except as expressly prohibited by the master declaration, the master association's articles of incorporation or bylaws, or other provisions of this chapter, the master association board may act in all instances on behalf of the master association. The directors of a master association shall be elected or, if a nonprofit corporation, elected or appointed, in a manner consistent with the requirements of the statute under which the master association is formed and of the master association's articles of incorporation and bylaws, and subject to the following requirements:

(1) Except as set forth in subsections (2) and (3), the members of the master association shall elect the board of directors. A majority of the directors shall be members of the master association or members of a member of the master association, and shall be persons other than a declarant or affiliate of a declarant. If the member is not a natural person, it may designate a natural person to act on its behalf.

(2) The articles of incorporation or bylaws of the master association may authorize any person, whether or not the person is a member of, or otherwise subject to, the master association, including a declarant, to appoint or elect one director.

(3) A master association's articles of incorporation may suspend the members' right to elect or, in the case of a nonprofit corporation, elect or appoint, the master association's board of directors for a specified time period. During this period, the person or persons who execute the master declaration under subsection (f)(1), or their successors or assigns, may appoint the directors. The period during which the person or persons may appoint the directors begins when the master declaration is recorded and terminates upon the earliest of:

(i) the voluntary surrender of the right to appoint directors;

(ii) the date ten years after the date the master declaration is recorded;

(iii) the date, if any, in the articles of incorporation; or

(iv) the date when at least 75 percent of the units and other parcels of real estate which are referred to in subsection (f)(1)(vii) have been conveyed to such persons for occupancy by the persons or their tenants.

(4) The term of any director appointed under subsection (3) expires 60 days after the right to appoint directors terminates. The master association's board of directors shall call an annual or special meeting of the master association's members to elect or appoint successor directors within the 60-day period.

(5) The system for the election of directors shall be fair and equitable and shall take into account the number of members of each association any of whose powers are delegated to the master association, the needs of the members of the master association, the allocation of liability for master association common expenses, and the types of common interest communities and other real estate subject to the master association.

(d) The articles of incorporation or bylaws of the master association may authorize special classes of directors and allocations of director voting rights, as follows: (i) classes of directors that are elected by different classes of members, to address operational, physical, or administrative differences within the master association, or (ii) class voting by the classes of directors on specific issues affecting only a certain class or classes of members, units or other parcels of real estate, or to otherwise protect the legitimate interests of such class or classes. No person may utilize such special classes or allocations for the purpose of evading any limitation imposed on declarants by this chapter.

(e) The officers of a master association shall be elected, appointed, or designated in a manner consistent with the statute under which the master association is formed and consistent with the master association articles of incorporation and bylaws.

(f) The creation and authority of a master association shall be governed by the following requirements:

(1) A master declaration shall be recorded in connection with the creation of a master association. The master declaration shall be executed by the owners of the real estate subjected to the master declaration. The master declaration shall contain, at a minimum:

(i) the name of the master association;

(ii) a legally sufficient description of the real estate which is subject to the master declaration and a legally sufficient description of any other real estate which may be subjected to the master declaration pursuant to subsection (g);

(iii) a statement as to whether the real estate subject to, and which may be subjected to, the master declaration collectively is or collectively will be a separate common interest community;

(iv) a description of the members of the master association;

(v) a description of the master association's powers. To the extent described in the master declaration, a master association has the powers with respect to the master association's members and the property subject to the master declaration that section 515B.3-102 grants to an association with respect to the association's members and the property subject to the declaration. A master association also has the powers delegated to it by an association pursuant to subsection (f)(2) or by a property owner's association not subject to the chapter; provided (i) that the master declaration identifies the powers and authorizes the delegation either expressly or by a grant of authority to the board of the association or property owner's association and (ii) that the master association board has not refused the delegation pursuant to subsection (f)(4). The provisions of the declarations of the common interest communities, or the provisions of recorded instruments governing other property subject to the master declaration, that delegate powers to the master association shall be consistent with the provisions of the master declaration that govern the delegation of the powers;

(vi) a description of the formulas governing the allocation of assessments and member voting rights, including any special classes or allocations referred to in subsection (d);

(vii) a statement of the total number of units and other parcels of real estate intended for ~~residential use by a person or the person's tenants~~ private ownership and use that are (i) subject to the master declaration as initially recorded and (ii) intended to be created by the addition of real estate or by the subdivision of units or other parcels of real estate; and

(viii) the requirements for amendment of the master declaration, other than an amendment under subsection (g).

(2) The declaration of a common interest community located on property subject to a master declaration may:

(i) delegate any of the powers described in section 515B.3-102 to the master association; provided, that a delegation of the powers described in section 515B.3-102(a)(2) is effective only if expressly stated in the declaration; and

(ii) authorize the board to delegate any of the powers described in section 515B.3-102, except for the powers described in section 515B.3-102(a)(2), to the master association.

(3) With respect to any other property subject to a master association, there need not be an instrument other than the master declaration recorded against the property to empower the master association to exercise powers with respect to the property.

(4) If a declaration or other recorded instrument authorizes the board or the board of a property owner's association to delegate powers to a master association, the master association board may refuse any delegation of powers that does not comply with (i) this chapter, (ii) the declaration or other recorded instrument, or (iii) the organizational documents of the master association.

(5) The failure of a declaration, a board or an owner of property subject to a master association to properly delegate some or all of the powers to the master association does not affect the authority of the master association to exercise those and other powers with respect to other common interest communities or owners of properties that are subject to the master association.

(g) The master declaration may authorize other real estate to be subjected to the master declaration. The other real estate shall be subjected to the master declaration by an amendment executed by the owner of the other real estate and any other person or persons required by the master declaration, and recorded.

(h) Sections 515B.3-103(a), (b), and (g), 515B.3-108, 515B.3-109, 515B.3-110, and 515B.3-112 shall apply in the conduct of the affairs of a master association. But the rights of voting, notice, and other rights enumerated in those sections apply to persons who elect or appoint the board of a master association, whether or not those persons are otherwise unit owners within the meaning of this chapter.

(i) If so provided in the master declaration, a master association may levy assessments for common expenses of the master association against the property subject to the master declaration, and have and foreclose liens securing the assessments. The liens shall have the same priority against secured parties, shall include the same fees and charges, and may be foreclosed in the same manner, as assessment liens under section 515B.3-116. The master association's lien shall have priority as against the lien of an association or property owner's association subject to the master association, regardless of when the lien arose or was perfected.

(1) Master association common expenses shall be allocated among the members of the master association in a fair and equitable manner. If the members include associations or property owner's associations, then the master assessments may be allocated among and levied against the associations or property owner's associations, or allocated among and levied against the units or other parcels of real estate owned by the members of the association or property owner's association. If so provided in the master declaration, master assessments levied against a member association or property owner's association are allocated among and levied against the units or other parcels of real estate owned by the members of the association or property owner's association. If applicable and appropriate, the formulas and principles described in section 515B.2-108, subsections (b), (c), (d), and (e), shall be used in making the allocations. The assessment formulas and procedures described in the declarations of any common interest communities or any instruments governing other real estate subject to the master association shall not conflict with the formulas and procedures described in the master declaration.

(2) The master declaration may exempt from liability for all or a portion of master association assessments any person authorized by subsection (c)(3) to appoint the members of the master association board, or any other person, and exempt any unit or other parcel of real estate owned by the person from

a lien for such assessments, until a building constituting or located within the unit or other parcel of real estate is substantially completed. Substantial completion shall be evidenced by a certificate of occupancy in a jurisdiction that issues that certificate.

(j) A master association shall not be used, directly or indirectly, to avoid or nullify any warranties or other obligations for which a declarant of a common interest community subject to the master association is responsible, or to otherwise avoid the requirements of this chapter.

Sec. 13. Minnesota Statutes 2005 Supplement, section 515B.3-115, is amended to read:

515B.3-115 ASSESSMENTS FOR COMMON EXPENSES.

(a) The obligation of a unit owner to pay common expense assessments shall be as follows:

(1) If a common expense assessment has not been levied, the declarant shall pay all operating expenses of the common interest community, and shall fund the replacement reserve component of the common expenses as required by subsection (b).

(2) If a common expense assessment has been levied, all unit owners including the declarant shall pay the assessments allocated to their units, subject to the following:

(i) If the declaration so provides, a declarant's liability, and the assessment lien, for the common expense assessments, exclusive of replacement reserves, on any unit owned by the declarant may be limited to 25 percent or more of any assessment, exclusive of replacement reserves, until the unit or any building located in the unit is substantially completed. Substantial completion shall be evidenced by a certificate of occupancy in any jurisdiction that issues the certificate.

(ii) If the declaration provides for a reduced assessment pursuant to paragraph (2)(i), the declarant shall be obligated, within 60 days following the termination of the period of ~~the~~ declarant control, to make up any operating deficit incurred by the association during the period of declarant control. The existence and amount, if any, of the operating deficit shall be determined using the accrual basis of accounting applied as of the date of termination of the period of declarant control, regardless of the accounting methodology previously used by the association to maintain its accounts.

(b) The replacement reserve component of the common expenses shall be funded for each unit in accordance with the projected annual budget required by section 515B.4-102(23); provided, that the funding of replacement reserves with respect to a unit shall commence no later than the date that the unit or any building located within the unit boundaries is substantially completed. Substantial completion shall be evidenced by a certificate of occupancy in any jurisdiction that issues the certificate.

(c) After an assessment has been levied by the association, assessments shall be levied at least annually, based upon a budget approved at least annually by the association.

(d) Except as modified by subsections (a)(1) and (2), (e), (f), and (g), all common expenses shall be assessed against all the units in accordance with the allocations established by the declaration pursuant to section 515B.2-108.

(e) Unless otherwise required by the declaration:

(1) any common expense associated with the maintenance, repair, or replacement of a limited common element shall be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(2) any common expense or portion thereof benefiting fewer than all of the units may be assessed exclusively against the units benefited, equally, or in any other proportion the declaration provides;

(3) the costs of insurance may be assessed in proportion to risk or coverage, and the costs of utilities may be assessed in proportion to usage;

(4) reasonable attorneys fees and costs incurred by the association in connection with (i) the collection of assessments and, (ii) the enforcement of this chapter, the articles, bylaws, declaration, or rules and regulations, against a unit owner, may be assessed against the unit owner's unit; and

(5) fees, charges, late charges, fines and interest may be assessed as provided in section 515B.3-116(a).

(f) Assessments levied under section 515B.3-116 to pay a judgment against the association may be levied only against the units in the common interest community at the time the judgment was entered, in proportion to their common expense liabilities.

(g) If any damage to the common elements or another unit is caused by the act or omission of any unit owner, or occupant of a unit, or their invitees, the association may assess the costs of repairing the damage exclusively against the unit owner's unit to the extent not covered by insurance.

(h) Subject to any shorter period specified by the declaration or bylaws, if any installment of an assessment becomes more than 60 days past due, then the association may, upon ten days' written notice to the unit owner, declare the entire amount of the assessment immediately due and payable in full.

(i) If common expense liabilities are reallocated for any purpose authorized by this chapter, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.

(j) An assessment against fewer than all of the units must be levied within three years after the event or circumstances forming the basis for the assessment, or shall be barred.

Sec. 14. Minnesota Statutes 2005 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 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 the unit shall be equal to the total amount which the lien secures multiplied by a percentage calculated by dividing the common expense liability attributable to the unit by the common expense liability attributable to all units 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 attributable to all units. 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.

(b) Labor performed or materials furnished for the improvement of a unit shall be the basis for the recording of a lien against that unit pursuant to the provisions of chapter 514 but shall not be the basis for the recording of a lien against the common elements. Labor performed or materials furnished for the improvement of common elements, for which a lien may be recorded under chapter 514, 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 perfected by recording a lien against all the units in the common interest community, but shall not be the basis for the recording of a lien against the common elements except in the case of a

condominium on registered land, in which case a lien must be filed pursuant to section 508.351, subdivision ~~3~~5, or 508A.351, subdivision ~~3~~5. Where a lien is recorded against 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 notices required under 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 shall be perfected by recording a financing statement in the UCC filing section of the central filing system operated by the Office of the Secretary of State. In any disposition by a secured party pursuant to section 336.9-610 or retention pursuant to sections 336.9-620 to 336.9-622, 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.

Sec. 15. Minnesota Statutes 2005 Supplement, section 515B.4-101, is amended to read:

515B.4-101 APPLICABILITY; DELIVERY OF DISCLOSURE STATEMENT.

(a) Sections 515B.4-101 through 515B.4-118 apply to all units subject to this chapter, except as provided in subsection (c) or as modified or waived by written agreement of purchasers of a unit which is restricted to nonresidential use.

(b) Subject to subsections (a) and (c), a declarant who offers a unit to a purchaser shall deliver to the purchaser a current disclosure statement which complies with the requirements of section 515B.4-102. The disclosure statement shall include any material amendments to the disclosure statement made prior to the conveyance of the unit to the purchaser. The declarant shall be liable to the purchaser to whom it delivered the disclosure statement for any false or misleading statement set forth therein or for any omission of a material fact therefrom.

(c) Neither a disclosure statement nor a resale disclosure certificate need be prepared or delivered in the case of:

- (1) a gratuitous transfer;
- (2) a transfer pursuant to a court order;
- (3) a transfer to a government or governmental agency;
- (4) a transfer to a secured party by foreclosure or deed in lieu of foreclosure;
- (5) an option to purchase a unit, until exercised;
- (6) a transfer to a person who "controls" or is "controlled by," the grantor as those terms are defined with respect to a declarant under section 515B.1-103(2);
- (7) a transfer by inheritance;
- (8) a transfer of special declarant rights under section 515B.3-104; or
- (9) a transfer in connection with a change of form of common interest community under section 515B.2-123.

(d) A purchase agreement for a unit shall contain the following notice: "The following notice is required by Minnesota Statutes. The purchaser is entitled to receive a disclosure statement or resale disclosure certificate, as applicable. The disclosure statement or resale disclosure certificate contains important information regarding the common interest community and the purchaser's cancellation rights."

(e) A purchase agreement for the sale, to the initial occupant, of a platted lot or other parcel of real estate (i) which is subject to a master declaration, (ii) which is intended for residential occupancy, and (iii) which does not and is not intended to constitute a unit, shall contain the following notice: "The following notice is required by Minnesota Statutes: The real estate to be conveyed under this agreement is or will be subject to a master association as defined in Minnesota Statutes, chapter 515B. The master association ~~is obligated to~~ shall provide to the ~~purchaser~~ buyer, pursuant to Minnesota Statutes, section 515B.4-102(c), upon the ~~purchaser's~~ buyer's request, a statement containing the information required by Minnesota Statutes, section 515B.4-102(a)(20), with respect to the master association, prior to the time that the ~~purchaser~~ buyer signs a purchase agreement for the real estate. The statement contains important information regarding the master association and the ~~purchaser's~~ buyer's obligations thereunder." A claim by a ~~purchaser~~ buyer based upon a failure to include the foregoing notice in a purchase agreement:

- (1) shall be limited to legal, and not equitable, remedies;
 - (2) shall be barred unless it is commenced within the time period specified in section 515B.4-115(a);
- or
- (3) may be waived by a separate written document signed by the seller and ~~purchaser~~ buyer.

Sec. 16. Minnesota Statutes 2005 Supplement, section 515B.4-102, is amended to read:

515B.4-102 DISCLOSURE STATEMENT; GENERAL PROVISIONS.

- (a) A disclosure statement shall fully and accurately disclose:
 - (1) the name and, if available, the number of the common interest community;
 - (2) the name and principal address of the declarant;
 - (3) the number of units which the declarant has the right to include in the common interest community and a statement that the common interest community is either a condominium, cooperative, or planned community;
 - (4) a general description of the common interest community, including, at a minimum, (i) the number of buildings, (ii) the number of dwellings per building, (iii) the type of construction, (iv) whether the common interest community involves new construction or rehabilitation, (v) whether any building was wholly or partially occupied, for any purpose, before it was added to the common interest community and the nature of the occupancy, and (vi) a general description of any roads, trails, or utilities that are located on the common elements and that the association or a master association will be required to maintain;
 - (5) declarant's schedule of commencement and completion of construction of any buildings and other improvements that the declarant is obligated to build pursuant to section 515B.4-117;
 - (6) any expenses or services, not reflected in the budget, that the declarant pays or provides, which may become a common expense; the projected common expense attributable to each of those expenses or services; and an explanation of declarant's limited assessment liability under section 515B.3-115; ~~subsection~~ (b);
 - (7) any initial or special fee due from the purchaser to the declarant or the association at closing, together with a description of the purpose and method of calculating the fee;
 - (8) identification of any liens, defects, or encumbrances which will continue to affect the title to a unit or to any real property owned by the association after the contemplated conveyance;
 - (9) a description of any financing offered or arranged by the declarant;
 - (10) a statement as to whether application has been made for any project approvals for the common interest community from the Federal National Mortgage Association (FNMA), Federal Home Loan

Mortgage Corporation (FHLMC), Department of Housing and Urban Development (HUD) or Department of Veterans Affairs (VA), and which, if any, such final approvals have been received;

(11) the terms of any warranties provided by the declarant, including copies of sections 515B.4-112 through 515B.4-115, and any other applicable statutory warranties, and a statement of any limitations on the enforcement of the applicable warranties or on damages;

(12) a statement that: (i) within ~~five~~ ten days after the receipt of a disclosure statement, a purchaser may cancel any contract for the purchase of a unit from a declarant; provided, that the right to cancel terminates upon the purchaser's voluntary acceptance of a conveyance of the unit from the declarant or by the purchaser agreeing to modify or waive the right to cancel in the manner provided by section 515B.4-106; ~~paragraph~~ (a); (ii) if a purchaser receives a disclosure statement more than ~~five~~ ten days before signing a purchase agreement, the purchaser cannot cancel the purchase agreement; and (iii) if a declarant obligated to deliver a disclosure statement fails to deliver a disclosure statement which substantially complies with this chapter to a purchaser to whom a unit is conveyed, the declarant shall be liable to the purchaser as provided in section 515B.4-106(d);

(13) a statement disclosing to the extent of the declarant's or an affiliate of a declarant's actual knowledge, after reasonable inquiry, any unsatisfied judgments or lawsuits to which the association is a party, and the status of those lawsuits which are material to the common interest community or the unit being purchased;

(14) a statement (i) describing the conditions under which earnest money will be held in and disbursed from the escrow account, as set forth in section 515B.4-109, (ii) that the earnest money will be returned to the purchaser if the purchaser cancels the contract pursuant to section 515B.4-106, and (iii) setting forth the name and address of the escrow agent;

(15) a detailed description of the insurance coverage provided by the association for the benefit of unit owners, including a statement as to which, if any, of the items referred to in section 515B.3-113, subsection (b), are insured by the association;

(16) any current or expected fees or charges, other than assessments for common expenses, to be paid by unit owners for the use of the common elements or any other improvements or facilities;

(17) the financial arrangements, including any contingencies, which have been made to provide for completion of all improvements that the declarant is obligated to build pursuant to section 515B.4-118, or a statement that no such arrangements have been made;

(18) in a cooperative: (i) whether the unit owners will be entitled for federal and state tax purposes, to deduct payments made by the association for real estate taxes and interest paid to the holder of a security interest encumbering the cooperative; (ii) a statement as to the effect on the unit owners if the association fails to pay real estate taxes or payments due the holder of a security interest encumbering the cooperative; and (iii) the principal amount and a general description of the terms of any blanket mortgage, contract for deed, or other blanket security instrument encumbering the cooperative property;

(19) a statement: (i) that real estate taxes for the unit or any real property owned by the association are not delinquent or, if there are delinquent real estate taxes, describing the property for which the taxes are delinquent, stating the amount of the delinquent taxes, interest and penalties, and stating the years for which taxes are delinquent, and (ii) setting forth the amount of real estate taxes, including the amount of any special assessment certified for payment with the real estate taxes, due and payable with respect to the unit in the year in which the disclosure statement is given, if real estate taxes have been separately assessed against the unit;

(20) if the association or the purchaser of the unit will be a member of a master association, a statement to that effect, and all of the following information with respect to the master association: (i)

a copy of the master declaration, the articles of incorporation, bylaws, and rules and regulations for the master association, together with any amendments thereto; (ii) the name, address and general description of the master association, including a general description of any other association, unit owners, or other persons which are or may become members; (iii) a description of any nonresidential use permitted on any property subject to the master association; (iv) a statement as to the estimated maximum number of associations, unit owners or other persons which may become members of the master association, and the degree and period of control of the master association by a declarant or other person; (v) a description of any facilities intended for the benefit of the members of the master association and not located on property owned or controlled by a member or the master association; (vi) the financial arrangements, including any contingencies, which have been made to provide for completion of the facilities referred to in subsection (v), or a statement that no arrangements have been made; (vii) any current balance sheet of the master association and a projected or current annual budget, as applicable, which budget shall include with respect to the master association those items in paragraph (23), clauses (i) through (iii), and the projected monthly common expense assessment for each type of unit, lot, or other parcel of real estate which is or is planned to be subject to assessment; (viii) a description of any expenses or services not reflected in the budget, paid for or provided by a declarant or a person executing the master declaration, which may become an expense of the master association in the future; (ix) a description of any powers delegated to and accepted by the master association pursuant to section 515B.2-121(f)(2); (x) identification of any liens, defects or encumbrances that will continue to affect title to property owned or operated by the master association for the benefit of its members; (xi) the terms of any warranties provided by any person for construction of facilities in which the members of the master association have or may have an interest, and any known defects in the facilities which would violate the standards described in section 515B.4-112(b); (xii) a statement disclosing, after inquiry of the master association, any unsatisfied judgments or lawsuits to which the master association is a party, and the status of those lawsuits which are material to the master association; (xiii) a description of any insurance coverage provided for the benefit of its members by the master association; and (xiv) any current or expected fees or charges, other than assessments by the master association, to be paid by members of the master association for the use of any facilities intended for the benefit of the members;

(21) a statement as to whether the unit will be substantially completed at the time of conveyance to a purchaser, and if not substantially completed, who is responsible to complete and pay for the construction of the unit;

(22) a copy of the declaration and any amendments thereto, (exclusive of the CIC plat), any other recorded covenants, conditions restrictions, and reservations affecting the common interest community; the articles of incorporation, bylaws and any rules or regulations of the association; any agreement excluding or modifying any implied warranties; any agreement reducing the statute of limitations for the enforcement of warranties; any contracts or leases to be signed by purchaser at closing; and a brief narrative description of any (i) contracts or leases that are or may be subject to cancellation by the association under section 515B.3-105 and (ii) any material agreements entered into between the declarant and a governmental entity that affect the common interest community; and

(23) a balance sheet for the association, current within 90 days; a projected annual budget for the association; and a statement identifying the party responsible for the preparation of the budget. The budget shall assume that all units intended to be included in the common interest community, based upon the declarant's good faith estimate, have been subjected to the declaration; provided, that additional budget portrayals based upon a lesser number of units are permitted. The budget shall include, without limitation: (i) a statement of the amount included in the budget as a reserve for replacement; (ii) a statement of any other reserves; (iii) the projected common expense for each category of expenditures for the association; (iv) the projected monthly common expense assessment for each type of unit; and (v) a footnote or other reference to those components of the common interest community the maintenance, repair, or replacement of which the budget assumes will be funded by assessments under section 515B.3-115(e) rather than by assessments

included in the association's annual budget, and a statement referencing section 515B.3-115(e)(1) or (2) as the source of funding. If, based upon the association's then current budget, the monthly common expense assessment for the unit at the time of conveyance to the purchaser is anticipated to exceed the monthly assessment stated in the budget, a statement to such effect shall be included.

(b) A declarant shall promptly amend the disclosure statement to reflect any material change in the information required by this chapter.

(c) The master association, within ten days after a request by a declarant, a holder of declarant rights, or a ~~purchaser~~ buyer referred to in section 515B.4-101(e), or the authorized representative of any of them, shall furnish the information required to be provided by subsection (a)(20). A declarant or other person who provides information pursuant to subsection (a)(20) is not liable to the ~~purchaser~~ buyer for any erroneous information if the declarant or other person: (i) is not an affiliate of or related in any way to a person authorized to appoint the master association board pursuant to section 515B.2-121(c)(3), and (ii) has no actual knowledge that the information is incorrect.

Sec. 17. Minnesota Statutes 2004, section 518.191, subdivision 2, is amended to read:

Subd. 2. **Required information.** A summary real estate disposition judgment must contain the following information:

(1) the full caption and file number of the case and the title "Summary Real Estate Disposition Judgment";

(2) the dates of the parties' marriage and of the entry of the judgment and decree of dissolution;

(3) the names of the parties' attorneys or if either or both appeared pro se;

(4) the name of the judge and referee, if any, who signed the order for judgment and decree;

(5) whether the judgment and decree resulted from a stipulation, a default, or a trial and the appearances at the default or trial;

(6) if the judgment and decree resulted from a stipulation, whether the real property was described by a legal description;

(7) if the judgment and decree resulted from a default, whether the petition contained the legal description of the property and whether disposition was made in accordance with the request for relief;

(8) whether the summons and petition were served personally upon the respondent pursuant to the Rules of Civil Procedure, Rule 4.03(a), or section 543.19;

(9) if the summons and petition were served on the respondent only by publication, the name of each legal newspaper and county in which the summons and petition were published and the dates of publications;

(10) whether either party changed the party's name through the judgment and decree;

~~(7)~~ (11) the legal description of each parcel of real estate;

~~(8)~~ (12) the name or names of the persons awarded an interest in each parcel of real estate and a description of the interest awarded;

~~(9)~~ (13) liens, mortgages, encumbrances, or other interests in the real estate described in the judgment and decree; and

~~(10)~~ (14) triggering or contingent events set forth in the judgment and decree affecting the disposition of each parcel of real estate.

Sec. 18. Minnesota Statutes 2004, section 518.191, is amended by adding a subdivision to read:

Subd. 2a. **Amended summary real estate disposition judgment.** (a) On the court's own motion or on application by an interested person, the court shall issue an order authorizing the court administrator to issue an amended summary real estate disposition judgment to correct an erroneous legal description of real estate contained in the judgment and decree of dissolution.

(b) An application to correct a legal description under this subdivision must contain:

(1) the erroneous legal description contained in the judgment and decree;

(2) the correct legal description of the real estate;

(3) written evidence satisfactory to the court to show the correct legal description, or a request for an evidentiary hearing to produce evidence of the correct legal description; and

(4) a proposed amended summary real estate disposition judgment.

(c) The court shall consider an application under this subdivision on an expedited basis. The court's order must be based on the evidence provided in the application, the evidence produced at an evidentiary hearing, or the evidence already in the record of the proceeding. If the court is satisfied that an erroneous legal description should be corrected under this subdivision, the court may issue its order without a hearing or notice to any person. A filing fee is not required for an application under this subdivision. The court's order must be treated as an amendment of the court's findings of fact regarding the legal description of the property in question, without the need to amend the original judgment and decree. The court shall issue the order if the court specifically finds that the court had jurisdiction over the respondent in the dissolution proceeding and that the property was sufficiently identified in the original proceedings to prevent prejudice to the rights of either party to the dissolution and that the amendment will not prejudice their rights. The court's order is effective retroactive to the date of entry of the original judgment and decree of dissolution.

(d) An amended summary real estate disposition judgment must be treated the same as the prior summary real estate disposition judgment for all purposes.

(e) On request by any interested person, the court administrator shall provide a certified copy of an amended summary real estate disposition judgment showing the correct legal description of the real property affected by the judgment and decree.

(f) This subdivision may not be used to add omitted property to a judgment and decree of dissolution, unless the court determines that the omitted property is an integral or appurtenant part of real property already properly included in the judgment and decree.

Sec. 19. Minnesota Statutes 2004, section 518.191, subdivision 4, is amended to read:

Subd. 4. Transfer of property. The summary real estate disposition judgment operates as a conveyance and transfer of each interest in the real estate in the manner and to the extent described in the summary real estate disposition judgment. A summary real estate disposition judgment, or an amended summary real estate disposition judgment that supersedes an earlier judgment, is prima facie evidence of the facts stated in the summary real estate disposition judgment. A purchaser for value without notice of any defect in the dissolution proceedings may rely on a summary real estate disposition judgment or a later amended summary real estate disposition judgment to establish the facts stated in the judgment.

Sec. 20. Minnesota Statutes 2004, section 524.3-301, is amended to read:

524.3-301 INFORMAL PROBATE OR APPOINTMENT PROCEEDINGS; APPLICATION; CONTENTS.

An informal probate proceeding is an informal proceeding for the probate of decedent's will with or without an application for informal appointment. An informal appointment proceeding is an informal

proceeding for appointment of a personal representative in testate or intestate estates. These proceedings may be combined in a single proceeding. Applications for informal probate or informal appointment shall be directed to the registrar, and verified by the applicant, in accordance with section 524.1-310, to be accurate and complete to the best of applicant's knowledge and belief as to the following information:

(1) Every application for informal probate of a will or for informal appointment of a personal representative, other than a special or successor representative, shall contain the following:

(i) a statement of the interest of the applicant;

(ii) the name, ~~Social Security number~~, birthdate, and date of death of the decedent, and the county and state of the decedent's domicile at the time of death, and the names and addresses of the spouse, children, heirs, and devisees and the ages of any who are minors so far as known or ascertainable with reasonable diligence by the applicant;

(iii) if the decedent was not domiciled in the state at the time of death, a statement showing venue;

(iv) a statement identifying and indicating the address of any personal representative of the decedent appointed in this state or elsewhere whose appointment has not been terminated;

(v) a statement indicating whether the applicant has received a demand for notice, or is aware of any demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this state or elsewhere.

(2) An application for informal probate of a will shall state the following in addition to the statements required by (1):

(i) that the original of the decedent's last will is in the possession of the court, or accompanies the application, or that an authenticated copy of a will probated in another jurisdiction accompanies the application;

(ii) that the applicant, to the best of the applicant's knowledge, believes the will to have been validly executed;

(iii) that after the exercise of reasonable diligence, the applicant is unaware of any instrument revoking the will, and that the applicant believes that the instrument which is the subject of the application is the decedent's last will;

(iv) that the time limit for informal probate as provided in this article has not expired either because three years or less have passed since the decedent's death, or, if more than three years from death have passed, that circumstances as described by section 524.3-108 authorizing tardy probate have occurred.

(3) An application for informal appointment of a personal representative to administer an estate under a will shall describe the will by date of execution and state the time and place of probate or the pending application or petition for probate. The application for appointment shall adopt the statements in the application or petition for probate and state the name, address and priority for appointment of the person whose appointment is sought.

(4) An application for informal appointment of an administrator in intestacy shall state in addition to the statements required by (1):

(i) that after the exercise of reasonable diligence, the applicant is unaware of any unrevoked testamentary instrument relating to property having a situs in this state under section 524.1-301, or, a statement why any such instrument of which the applicant may be aware is not being probated;

(ii) the priority of the person whose appointment is sought and the names of any other persons having a prior or equal right to the appointment under section 524.3-203.

(5) An application for appointment of a personal representative to succeed a personal representative appointed under a different testacy status shall refer to the order in the most recent testacy proceeding, state the name and address of the person whose appointment is sought and of the person whose appointment will be terminated if the application is granted, and describe the priority of the applicant.

(6) An application for appointment of a personal representative to succeed a personal representative who has tendered a resignation as provided in section 524.3-610(c), or whose appointment has been terminated by death or removal, shall adopt the statements in the application or petition which led to the appointment of the person being succeeded except as specifically changed or corrected, state the name and address of the person who seeks appointment as successor, and describe the priority of the applicant.

Sec. 21. Minnesota Statutes 2004, section 524.3-715, is amended to read:

524.3-715 TRANSACTIONS AUTHORIZED FOR PERSONAL REPRESENTATIVES; EXCEPTIONS.

Except as restricted or otherwise provided by the will or by an order in a formal proceeding and subject to the priorities stated in section 524.3-902, a personal representative, acting reasonably for the benefit of the interested persons, may properly:

(1) retain assets owned by the decedent pending distribution or liquidation including those in which the representative is personally interested or which are otherwise improper for trust investment;

(2) receive assets from fiduciaries, or other sources;

(3) perform, compromise or refuse performance of the decedent's contracts that continue as obligations of the estate, as the personal representative may determine under the circumstances. In performing enforceable contracts by the decedent to convey or lease land, the personal representative, among other possible courses of action, may:

(i) execute and deliver a deed of conveyance for cash payment of all sums remaining due or the purchaser's note for the sum remaining due secured by a mortgage or deed of trust on the land; or

(ii) deliver a deed in escrow with directions that the proceeds, when paid in accordance with the escrow agreement, be paid to the successors of the decedent, as designated in the escrow agreement;

(4) satisfy written charitable pledges of the decedent irrespective of whether the pledges constituted binding obligations of the decedent or were properly presented as claims, if in the judgment of the personal representative the decedent would have wanted the pledges completed under the circumstances;

(5) if funds are not needed to meet debts and expenses currently payable and are not immediately distributable, deposit or invest liquid assets of the estate, including moneys received from the sale of other assets, in federally insured interest-bearing accounts, readily marketable secured loan arrangements or other prudent investments which would be reasonable for use by trustees generally;

(6) acquire or dispose of an asset, including land in this or another state, for cash or on credit, at public or private sale; and manage, develop, improve, exchange, partition, change the character of, or abandon an estate asset;

(7) make ordinary or extraordinary repairs or alterations in buildings or other structures, demolish any improvements, raze existing or erect new party walls or buildings;

(8) subdivide, develop or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; or adjust differences in valuation on exchange or partition by giving or receiving considerations; or dedicate easements to public use without consideration;

(9) enter for any purpose into a lease as lessor or lessee, with or without option to purchase or renew, for a term within or extending beyond the period of administration;

(10) enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement;

(11) abandon property when, in the opinion of the personal representative, it is valueless, or is so encumbered, or is in condition that it is of no benefit to the estate;

(12) vote stocks or other securities in person or by general or limited proxy;

(13) pay calls, assessments, and other sums chargeable or accruing against or on account of securities, unless barred by the provisions relating to claims;

(14) hold a security in the name of a nominee or in other form without disclosure of the interest of the estate but the personal representative is liable for any act of the nominee in connection with the security so held;

(15) insure the assets of the estate against damage, loss and liability and the personal representative against liability as to third persons;

(16) borrow money with or without security to be repaid from the estate assets or otherwise; and advance money for the protection of the estate;

(17) effect a fair and reasonable compromise with any debtor or obligor, or extend, renew or in any manner modify the terms of any obligation owing to the estate. The personal representative on holding a mortgage, pledge or other lien upon property of another person may, in lieu of foreclosure, accept a conveyance or transfer of encumbered assets from the owner thereof in satisfaction of the indebtedness secured by lien;

(18) pay in compliance with section 524.3-805, but without the presentation of a claim, the reasonable and necessary last illness expenses of the decedent (except as provided in section 524.3-806 (a)), reasonable funeral expenses, debts and taxes with preference under federal or state law, and other taxes, assessments, compensation of the personal representative and the personal representative's attorney, and all other costs and expenses of administration although the same may be otherwise barred under section 524.3-803;

(19) sell or exercise stock subscription or conversion rights; consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;

(20) allocate items of income or expense to either estate income or principal, as permitted or provided by law;

(21) employ persons, including attorneys, auditors, investment advisors, or agents, even if they are associated with the personal representative, to advise or assist the personal representative in the performance of administrative duties; act without independent investigation upon their recommendations; and instead of acting personally, employ one or more agents to perform any act of administration, whether or not discretionary;

(22) prosecute or defend claims, or proceedings in any jurisdiction for the protection of the estate and of the personal representative in the performance of duties;

(23) sell, mortgage, or lease any real or personal property of the estate or any interest therein, including the homestead, exempt or otherwise, for cash, credit, or for part cash and part credit, and with or without security for unpaid balances, ~~provided, however,~~ and without the consent of any devisee or heir unless the property has been specifically devised to a devisee or heir by decedent's will, except that the homestead of a

decedent when the spouse takes any interest therein shall not be sold, mortgaged or leased unless the written consent of the spouse has been obtained;

(24) continue any unincorporated business or venture in which the decedent was engaged at the time of death (i) in the same business form for a period of not more than four months from the date of appointment of a general personal representative if continuation is a reasonable means of preserving the value of the business including good will, (ii) in the same business form for any additional period of time that may be approved by order of the court in a formal proceeding to which the persons interested in the estate are parties; or (iii) throughout the period of administration if the business is incorporated by the personal representative and if none of the probable distributees of the business who are competent adults object to its incorporation and retention in the estate;

(25) incorporate any business or venture in which the decedent was engaged at the time of death;

(26) provide for exoneration of the personal representative from personal liability in any contract entered into on behalf of the estate;

(27) satisfy and settle claims and distribute the estate as provided in this chapter;

(28) foreclose a mortgage, lien, or pledge or collect the debts secured thereby, or complete any such proceeding commenced by the decedent;

(29) exercise all powers granted to guardians and conservators by sections 524.5-101 to 524.5-502.

Sec. 22. Minnesota Statutes 2004, section 524.3-803, is amended to read:

524.3-803 LIMITATIONS ON PRESENTATION OF CLAIMS.

(a) All claims as defined in section 524.1-201~~(4)~~(6), against a decedent's estate which arose before the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) in the case of a creditor who is only entitled, under the United States Constitution and under the Minnesota Constitution, to notice by publication under section 524.3-801, within four months after the date of the court administrator's notice to creditors which is subsequently published pursuant to section 524.3-801;

(2) in the case of a creditor who was served with notice under section 524.3-801; ~~paragraph (c)~~, within the later to expire of four months after the date of the first publication of notice to creditors or one month after the service;

(3) within the later to expire of one year after the decedent's death, or one year after June 16, 1989, whether or not notice to creditors has been published or served under section 524.3-801, provided, however, that in the case of a decedent who died before June 16, 1989, no claim which was then barred by any provision of law may be deemed to have been revived by the amendment of this section.

(b) All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) a claim based on a contract with the personal representative, within four months after performance by the personal representative is due;

(2) any other claim, within four months after it arises.

(c) Nothing in this section affects or prevents:

- (1) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate;
- (2) any proceeding to establish liability of the decedent or the personal representative for which there is protection by liability insurance, to the limits of the insurance protection only;
- (3) the presentment and payment at any time within one year after the decedent's death of any claim arising before the death of the decedent that is referred to in section 524.3-715, clause (18), although the same may be otherwise barred under this section; or
- (4) the presentment and payment at any time before a petition is filed in compliance with section 524.3-1001 or 524.3-1002 or a closing statement is filed under section 524.3-1003, of:
 - (i) any claim arising after the death of the decedent that is referred to in section 524.3-715, clause (18), although the same may be otherwise barred hereunder;
 - (ii) any other claim, including claims subject to clause (3), which would otherwise be barred hereunder, upon allowance by the court upon petition of the personal representative or the claimant for cause shown on notice and hearing as the court may direct.

Sec. 23. Minnesota Statutes 2005 Supplement, section 548.27, is amended to read:

548.27 FILING AND STATUS OF FOREIGN JUDGMENTS.

~~(a)~~ A certified copy of any foreign judgment may be filed in the office of the court administrator of any district court of this state. ~~Subject to paragraph (b),~~ The court administrator shall treat the foreign judgment in the same manner as a judgment of any district court or the Supreme Court of this state, ~~and~~. The time period provided in section 548.09 for the continuation of the lien on real property, the rate of interest accrual provided in section 549.09, the time period provided in section 550.01 for the enforcement of the judgment, and the requirements of sections 508.63 and 508A.63 apply to foreign judgments filed pursuant to this section. For purposes of sections 548.09, 549.09, 550.01, 508.63, and 508A.63, the date of entry of a foreign judgment is the original date of entry in the foreign jurisdiction. Upon the filing of a certified copy of a foreign judgment in the office of the court administrator of district court of a county, it may not be filed in another district court in the state. A judgment so filed has the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of a district court or the Supreme Court of this state, and may be enforced or satisfied in like manner.

~~(b) If the creditor wants the foreign state's life span or interest rate applied to the judgment, the creditor or creditor's attorney must file an affidavit attesting to the foreign state's life span or interest rate, and a subsequent affidavit each time the interest rate or life span changes. Absent such an affidavit, Minnesota's life span and interest rate shall be applied to the judgment.~~

Sec. 24. **APPLICABILITY; TRANSITION PROVISIONS.**

Section 21 applies to every conveyance by a personal representative made before, on, or after the effective date of this section, except that it does not affect an action or proceeding that is:

- (1) pending on the effective date of section 21 involving the validity of the conveyance; or
- (2) commenced prior to February 1, 2007, if a notice of the pendency of the action or proceeding is recorded before February 1, 2007, in the office of the county recorder or registrar of titles of the county in which the real property affected by the action or proceeding is located.

Presented to the governor May 19, 2006

Signed by the governor May 21, 2006, 10:15 p.m.