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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 87

- 01/14/2013 Authored by Winkler
The bill was read for the first time and referred to the Committee on Civil Law
- 01/28/2013 Adoption of Report: Pass and re-referred to the Committee on Judiciary Finance and Policy
- 01/31/2013 Adoption of Report: Pass and Read Second Time
- 02/18/2013 Calendar for the Day
Read Third Time
Passed by the House and transmitted to the Senate

1.1 A bill for an act
 1.2 relating to real property; providing for affidavit of survivorship; providing
 1.3 for release or partial release of lien of a mortgage; claiming an interest in
 1.4 registered land after registration; making technical and conforming changes;
 1.5 amending Minnesota Statutes 2012, sections 507.092, subdivision 1; 507.403;
 1.6 508.70, subdivision 1; 508.82, subdivision 1; 508A.70, subdivision 1; 508A.82,
 1.7 subdivision 1.

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

1.9 Section 1. Minnesota Statutes 2012, section 507.092, subdivision 1, is amended to read:

1.10 Subdivision 1. **To get tax statements.** (a) No contract for deed or deed conveying
 1.11 fee title to real estate or affidavit of survivorship shall be recorded by the county recorder
 1.12 or registered by the registrar of titles until the name and address of the person to whom
 1.13 future tax statements should be sent, is printed, typewritten, stamped or written on it in a
 1.14 legible manner. An instrument complies with this subdivision if it contains a statement
 1.15 in the following form: "Tax statements for the real property described in this instrument
 1.16 should be sent to:

1.17 (legal name of grantee) (residential or business address)."

1.18 (b) The name provided under paragraph (a) must be the legal name of the grantee
 1.19 and the address must be the residential or business address of the grantee.

1.20 Sec. 2. Minnesota Statutes 2012, section 507.403, is amended to read:

1.21 **507.403 CERTIFICATE OF SATISFACTION; RELEASE OR PARTIAL**
 1.22 **RELEASE OF MORTGAGE SATISFACTION BY ASSIGNEE.**

1.23 Subdivision 1. **Certificate of satisfaction; release or partial release.** A certificate
 1.24 ~~of satisfaction of mortgage~~ that complies with this section is effective to ~~discharge~~ satisfy

2.1 or release the mortgage or release real estate described in the certificate from the lien of
 2.2 the mortgage even if one or more assignments of the mortgage have not been recorded
 2.3 or filed and no assignment of the mortgage has been recorded showing an assignment
 2.4 to the assignee executing the certificate.

2.5 Subd. 2. **Execution and contents.** A To be effective, the certificate of satisfaction
 2.6 under this section must be executed and acknowledged as required by law in the case of a
 2.7 deed, and must contain substantially all of the following:

2.8 (1) ~~the name of the assignee;~~ the name of the mortgagor, the name of the original
 2.9 mortgagee, the date of the mortgage, the date of recording, and the volume and page
 2.10 number or document number of the mortgage in the real property records where the
 2.11 mortgage is recorded; and

2.12 (2) a statement that the ~~assignee is the~~ entity or person executing the certificate
 2.13 is the current holder, owner, assignee, or successor of the mortgagee's interest in the
 2.14 mortgage; and

2.15 (3) if a partial release, a legal description of the real property being released from
 2.16 the lien of the mortgage.

2.17 Subd. 3. **Execution.** ~~A certificate of satisfaction under this section must be executed~~
 2.18 ~~and acknowledged as required by law in the case of a deed by a duly authorized officer~~
 2.19 ~~or duly appointed agent of the assignee, but shall not relieve any person of any liability~~
 2.20 ~~for damages caused by the person's wrongful or erroneous execution of a certificate of~~
 2.21 ~~satisfaction.~~

2.22 Subd. 4. **Effect.** For purposes of satisfying, releasing, or partially releasing the lien
 2.23 of a mortgage under this section, a certificate of satisfaction that contains the information
 2.24 and statements required by that complies with subdivision 2 and which is executed as
 2.25 provided in this section is prima facie evidence of the facts contained in it, is entitled to be
 2.26 recorded with the county recorder or registrar of titles, and operates as a satisfaction or
 2.27 release or partial release of the lien of the mortgage as described in the certificate. The
 2.28 county recorder and the registrar of titles shall rely upon it to satisfy or release or partially
 2.29 release the lien of the mortgage. Recording of a wrongful, erroneous, or unauthorized
 2.30 certificate shall not relieve the mortgagor, or the mortgagor's successors or assigns, from
 2.31 any personal liability on the loan or other obligations secured by the mortgage. In addition
 2.32 to any other remedy provided by law, a person who wrongfully or erroneously executes a
 2.33 certificate under this section is liable to the mortgagee or an assignee for actual damage
 2.34 sustained due to the recording of the certificate, together with reasonable attorney fees,
 2.35 and costs and disbursements incurred by a mortgagee or assignee in the enforcement
 2.36 of the terms of this subdivision.

3.1 ~~Subd. 5. **Recording.** If a mortgage is recorded in more than one county and a~~
 3.2 ~~certificate of satisfaction is recorded in one of them, a certified copy of the certificate may~~
 3.3 ~~be recorded in the other county with the same effect as the original. In every case, the~~
 3.4 ~~certificate must be entered and indexed as a satisfaction of the mortgage described in~~
 3.5 ~~the certificate.~~

3.6 Subd. 5a. **Liability.** Execution or recording of a wrongful, erroneous, or
 3.7 unauthorized certificate under this section shall not relieve the mortgagor or the
 3.8 mortgagor's successors or assigns from any personal liability on the obligations secured
 3.9 by the mortgage, and, in addition to any other remedies provided by law, a person who
 3.10 wrongfully, erroneously, or without authority executes or records such a certificate and
 3.11 any entity on whose behalf such a certificate is wrongfully, erroneously, or without
 3.12 authority executed or recorded, is liable to the mortgagee, the mortgagee's assigns, or any
 3.13 person or entity for actual damages sustained due to the execution or recording of such a
 3.14 certificate, together with reasonable attorney fees, costs, and disbursements incurred
 3.15 by the damaged party as a result.

3.16 Subd. 6. **Application Effective date.** This section is effective the day following final
 3.17 enactment and applies to any mortgage recorded or filed in this state and any certificate
 3.18 of satisfaction of the mortgage under this section wherever or whenever executed, and
 3.19 whether recorded, or filed before, on, or after August 1, 2004 the effective date.

3.20 Sec. 3. Minnesota Statutes 2012, section 508.70, subdivision 1, is amended to read:

3.21 Subdivision 1. **Procedure; costs.** (a) Any person claiming any interest in registered
 3.22 land arising or created after the date of the original registration, which does not appear
 3.23 on the certificate of title, may, if there is some impediment to registering the claimed
 3.24 interest, file with the registrar of titles a verified claim of unregistered interest, made by
 3.25 or at the instance of the claimant, stating:

- 3.26 (1) the alleged interest;
- 3.27 (2) how or from whom it was acquired;
- 3.28 (3) the reason the interest cannot be registered;
- 3.29 (4) the number of the affected certificate of title;
- 3.30 (5) a description of the affected land;
- 3.31 (6) a place at which all notices may be served upon the claimant; and
- 3.32 (7) that the claim is not made for the purpose of avoiding the payment of mortgage
 3.33 registry tax under section 287.01 or deed tax under section 287.21, or avoiding obtaining
 3.34 the auditor's statement on an instrument under section 272.12.

4.1 (b) If the claimant claims an interest in an unregistered mortgage that is subject to
 4.2 the imposition of mortgage registry tax upon recording, the notice must contain evidence
 4.3 satisfactory to the registrar of titles that the mortgage registry tax has been paid.

4.4 (c) A copy of the claim must be mailed to the persons whose registered interests
 4.5 are affected by the claim at their addresses shown on the certificate of title. An affidavit
 4.6 stating the names and addresses of the persons to whom copies of the claim were mailed
 4.7 must be attached to the claim. The claim with attached affidavit regarding mailing shall be
 4.8 entitled to registration, and the court, upon the petition of any party in interest, shall grant
 4.9 a speedy hearing upon the validity of such claim and enter such order as justice and equity
 4.10 may require. If the court determines that the claim is invalid, it shall order the cancellation
 4.11 of the memorial of the claim. The court may, in any case, award such costs and damages,
 4.12 including a reasonable attorney's fee, as it may deem just.

4.13 Sec. 4. Minnesota Statutes 2012, section 508.82, subdivision 1, is amended to read:

4.14 Subdivision 1. **Standard documents.** The fees to be charged by the registrar of
 4.15 titles shall be and not exceed the following:

4.16 (1) of the fees provided herein, \$1.50 of the fees collected under clauses (2), (3), (4),
 4.17 (11), (13), (15), (17), and (18) for filing or memorializing shall be paid to the state treasury
 4.18 pursuant to section 508.75 and credited to the general fund;

4.19 (2) for registering a first certificate of title, including issuing a copy of it, \$46.

4.20 Pursuant to clause (1), distribution of this fee is as follows:

4.21 (i) \$10.50 shall be paid to the state treasury and credited to the general fund;

4.22 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
 4.23 subdivision 4; and

4.24 (iii) \$25.50 shall be deposited in the county general fund;

4.25 (3) for registering each instrument transferring the fee simple title for which a new
 4.26 certificate of title is issued and for the registration of the new certificate of title, including
 4.27 a copy of it, \$46. Pursuant to clause (1), distribution of this fee is as follows:

4.28 (i) \$12 shall be paid to the state treasury and credited to the general fund;

4.29 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
 4.30 subdivision 4; and

4.31 (iii) \$24 shall be deposited in the county general fund;

4.32 (4) for the entry of each memorial on a certificate, \$46. For multiple certificate
 4.33 entries, \$20 thereafter. Pursuant to clause (1), distribution of this fee is as follows:

4.34 (i) \$12 shall be paid to the state treasury and credited to the general fund;

5.1 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
5.2 subdivision 4;

5.3 (iii) \$24 shall be deposited in the county general fund; and

5.4 (iv) \$20 shall be deposited in the county general fund for each multiple entry used;

5.5 (5) for issuing each residue certificate and each additional new certificate, \$40;

5.6 (6) for exchange certificates, \$20 for each certificate canceled and \$20 for each
5.7 new certificate issued;

5.8 (7) for each certificate showing condition of the register, \$50;

5.9 (8) for any certified copy of any instrument or writing on file or recorded in the
5.10 registrar of titles' office, \$10;

5.11 (9) for a noncertified copy of any certificate of title, other than the copies issued
5.12 under clauses (2) and (3), any instrument or writing on file or recorded in the office of
5.13 the registrar of titles, or any specified page or part of it, an amount as determined by the
5.14 county board for each page or fraction of a page specified. If computer or microfilm
5.15 printers are used to reproduce the instrument or writing, a like amount per image;

5.16 (10) for a noncertified copy of any document submitted for recording, if the original
5.17 document is accompanied by a copy or duplicate original, \$2. Upon receipt of the copy
5.18 or duplicate original and payment of the fee, a registrar of titles shall return it marked
5.19 "copy" or "duplicate," showing the recording date and, if available, the document number
5.20 assigned to the original;

5.21 (11) for filing two copies of any plat, other than a CIC plat complying with section
5.22 515B.2-110, paragraph (c), in the office of the registrar, \$56. Pursuant to clause (1),
5.23 distribution of this fee is as follows:

5.24 (i) \$12 shall be paid to the state treasury and credited to the general fund;

5.25 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
5.26 subdivision 4; and

5.27 (iii) \$34 shall be deposited in the county general fund;

5.28 (12) for any other service under this chapter, such fee as the court shall determine;

5.29 (13) for filing any document affecting two or more units in a condominium governed
5.30 by chapter 515, \$46 for the first certificate upon which the document is registered, and for
5.31 multiple certificate entries, \$20 for each additional certificate upon which the document
5.32 is registered. For purposes of this paragraph, an amendment to the declaration of a
5.33 condominium governed by chapter 515 and a related amendment to the condominium
5.34 floor plans shall be considered a single document, and the filing fee shall be \$56 for the
5.35 first certificate upon which the document is registered, and for multiple certificate entries,

6.1 \$20 for each additional certificate upon which the document is registered. Pursuant to
 6.2 clause (1), distribution of this fee is as follows:

- 6.3 (i) \$12 shall be paid to the state treasury and credited to the general fund;
- 6.4 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
 6.5 subdivision 4;
- 6.6 (iii) \$24 shall be deposited in the county general fund for amendment to a declaration;
- 6.7 (iv) \$20 shall be deposited in the county general fund for each multiple entry used; and
- 6.8 (v) \$34 shall be deposited in the county general fund for an amended floor plan;
- 6.9 (14) for issuance of a ~~CECF~~ CICCT pursuant to section 508.351, \$40;
- 6.10 (15) for filing a common interest community declaration and a CIC plat complying
 6.11 with section 515B.2-110, paragraph (c); an amendment to a common interest community
 6.12 declaration and a related amendment to a CIC plat complying with section 515B.2-110,
 6.13 paragraph (c); or a supplemental declaration and a related supplemental CIC plat
 6.14 complying with section 515B.2-110, paragraph (c), each of which related documents
 6.15 shall be considered a single document, the filing fee shall be \$56 for the first certificate
 6.16 upon which the document is registered, and for multiple certificate entries, \$20 for each
 6.17 additional certificate upon which the document is registered. For filing any other document
 6.18 affecting two or more units in a common interest community, the filing fee shall be \$46
 6.19 for the first certificate upon which the document is registered, and for multiple certificate
 6.20 entries, \$20 for each additional certificate upon which the document is registered. The
 6.21 same fees shall apply to filing any document affecting two or more units or other parcels
 6.22 subject to a master declaration. Pursuant to clause (1), distribution of this fee is as follows:
- 6.23 (i) \$12 shall be paid to the state treasury and credited to the general fund;
- 6.24 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
 6.25 subdivision 4;
- 6.26 (iii) \$24 shall be deposited in the county general fund for the filing of an amendment
 6.27 complying with section 515B.2-110, subsection (c);
- 6.28 (iv) \$20 shall be deposited in the county general fund for each multiple entry used; and
- 6.29 (v) \$34 shall be deposited in the county general fund for the filing of a condominium
 6.30 or CIC plat or amendment;
- 6.31 (16) for a copy of a condominium floor plan filed in accordance with chapter 515,
 6.32 or a copy of a common interest community plat complying with section 515B.2-110,
 6.33 subsection (c), the fee shall be \$1 for each page of the floor plan or common interest
 6.34 community plat with a minimum fee of \$10;
- 6.35 (17) for the filing of a certified copy of a plat of the survey pursuant to section
 6.36 508.23 or 508.671, \$46. Pursuant to clause (1), distribution of this fee is as follows:

- 7.1 (i) \$12 shall be paid to the state treasury and credited to the general fund;
- 7.2 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
- 7.3 subdivision 4; and
- 7.4 (iii) \$24 shall be deposited in the county general fund;
- 7.5 (18) for filing a registered land survey in triplicate in accordance with section
- 7.6 508.47, subdivision 4, \$56. Pursuant to clause (1), distribution of this fee is as follows:
- 7.7 (i) \$12 shall be paid to the state treasury and credited to the general fund;
- 7.8 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
- 7.9 subdivision 4; and
- 7.10 (iii) \$34 shall be deposited in the county general fund; and
- 7.11 (19) for furnishing a certified copy of a registered land survey in accordance with
- 7.12 section 508.47, subdivision 4, \$15.

7.13 Sec. 5. Minnesota Statutes 2012, section 508A.70, subdivision 1, is amended to read:

7.14 Subdivision 1. **Procedure; costs.** (a) Any person claiming any interest in land

7.15 registered under sections 508A.01 to 508A.85 arising or created after the date of the first

7.16 CPT, may, if there is some impediment to registering the claimed interest, file with the

7.17 registrar of titles a verified claim of unregistered interest, made by or at the instance

7.18 of the claimant, stating:

- 7.19 (1) the alleged interest;
- 7.20 (2) how or from whom it was acquired;
- 7.21 (3) the reason the interest cannot be registered;
- 7.22 (4) the number of the affected CPT;
- 7.23 (5) a description of the affected land;
- 7.24 (6) a place at which all notices may be served upon the claimant; and
- 7.25 (7) that the claim is not made for the purpose of avoiding the payment of mortgage
- 7.26 registry tax under section 287.01 or deed tax under section 287.21, or avoiding obtaining
- 7.27 the auditor's statement on an instrument under section 272.12.

7.28 (b) If the claimant claims an interest in an unregistered mortgage that is subject to

7.29 the imposition of mortgage registry tax upon recording, the notice must contain evidence

7.30 satisfactory to the registrar of titles that the mortgage registry tax has been paid.

7.31 (c) A copy of the claim must be mailed to the persons whose registered interests

7.32 are affected by the claim at their addresses shown on the CPT. An affidavit stating the

7.33 names and addresses of the persons to whom copies of the claim were mailed must be

7.34 attached to the claim. The claim with attached affidavit regarding mailing shall be entitled

7.35 to registration, and the court, upon the petition of any party in interest, shall grant a speedy

8.1 hearing upon the validity of the claim and enter an order as justice and equity may require.
8.2 If the court determines that the claim is invalid, it shall order the cancellation of the
8.3 memorial of the claim. The court may, in any case, award costs and damages, including a
8.4 reasonable attorney's fee, as it may deem just.

8.5 Sec. 6. Minnesota Statutes 2012, section 508A.82, subdivision 1, is amended to read:

8.6 Subdivision 1. **Standard documents.** The fees to be charged by the registrar of
8.7 titles shall be and not exceed the following:

8.8 (1) of the fees provided herein, \$1.50 of the fees collected under clauses (2), (3),
8.9 (5), (12), (14), (16), and (19) for filing or memorializing shall be paid to the state treasury
8.10 pursuant to section 508.75 and credited to the general fund;

8.11 (2) for registering a first CPT, including issuing a copy of it, \$46. Pursuant to clause
8.12 (1), distribution of the fee is as follows:

8.13 (i) \$10.50 shall be paid to the state treasury and credited to the general fund;

8.14 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
8.15 subdivision 4; and

8.16 (iii) \$25.50 shall be deposited in the county general fund;

8.17 (3) for registering each instrument transferring the fee simple title for which a
8.18 new CPT is issued and for the registration of the new CPT, including a copy of it, \$46.

8.19 Pursuant to clause (1), distribution of the fee is as follows:

8.20 (i) \$12 shall be paid to the state treasury and credited to the general fund;

8.21 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
8.22 subdivision 4; and

8.23 (iii) \$24 shall be deposited in the county general fund;

8.24 (4) for issuance of a ~~CECT~~ CICCT pursuant to section 508A.351, \$40;

8.25 (5) for the entry of each memorial on a CPT, \$46; for multiple certificate entries, \$20
8.26 thereafter. Pursuant to clause (1), distribution of the fee is as follows:

8.27 (i) \$12 shall be paid to the state treasury and credited to the general fund;

8.28 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
8.29 subdivision 4;

8.30 (iii) \$24 shall be deposited in the county general fund; and

8.31 (iv) \$20 shall be deposited in the county general fund for each multiple entry used;

8.32 (6) for issuing each residue CPT, \$40;

8.33 (7) for exchange CPTs or combined certificates of title, \$20 for each CPT and

8.34 certificate of title canceled and \$20 for each new CPT or combined certificate of title issued;

8.35 (8) for each CPT showing condition of the register, \$50;

9.1 (9) for any certified copy of any instrument or writing on file or recorded in the
 9.2 registrar of titles' office, \$10;

9.3 (10) for a noncertified copy of any CPT, other than the copies issued under clauses
 9.4 (2) and (3), any instrument or writing on file or recorded in the office of the registrar of
 9.5 titles, or any specified page or part of it, an amount as determined by the county board for
 9.6 each page or fraction of a page specified. If computer or microfilm printers are used to
 9.7 reproduce the instrument or writing, a like amount per image;

9.8 (11) for a noncertified copy of any document submitted for recording, if the original
 9.9 document is accompanied by a copy or duplicate original, \$2. Upon receipt of the copy
 9.10 or duplicate original and payment of the fee, a registrar of titles shall return it marked
 9.11 "copy" or "duplicate," showing the recording date and, if available, the document number
 9.12 assigned to the original;

9.13 (12) for filing two copies of any plat in the office of the registrar, \$56. Pursuant to
 9.14 clause (1), distribution of the fee is as follows:

9.15 (i) \$12 shall be paid to the state treasury and credited to the general fund;

9.16 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
 9.17 subdivision 4; and

9.18 (iii) \$34 shall be deposited in the county general fund;

9.19 (13) for any other service under sections 508A.01 to 508A.85, the fee the court
 9.20 shall determine;

9.21 (14) for filing an amendment to a declaration in accordance with chapter 515, \$46
 9.22 for each certificate upon which the document is registered and for multiple certificate
 9.23 entries, \$20 thereafter; \$56 for an amended floor plan filed in accordance with chapter
 9.24 515. Pursuant to clause (1), distribution of the fee is as follows:

9.25 (i) \$12 shall be paid to the state treasury and credited to the general fund;

9.26 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
 9.27 subdivision 4;

9.28 (iii) \$24 shall be deposited in the county general fund for amendment to a declaration;

9.29 (iv) \$20 shall be deposited in the county general fund for each multiple entry used; and

9.30 (v) \$34 shall be deposited in the county general fund for an amended floor plan;

9.31 (15) for issuance of a ~~CECT~~ CICCT pursuant to section 508.351, \$40;

9.32 (16) for filing an amendment to a common interest community declaration, including
 9.33 a supplemental declaration, and plat or amendment complying with section 515B.2-110,
 9.34 subsection (c), and issuing a ~~CECT~~ CICCT if required, \$46 for each certificate upon which
 9.35 the document is registered and for multiple certificate entries, \$20 thereafter; \$56 for the
 9.36 filing of the condominium or common interest community plat or amendment. See section

10.1 515B.1-116 for special requirement relating to a common interest community. Pursuant to
10.2 clause (1), distribution of the fee is as follows:

10.3 (i) \$12 shall be paid to the state treasury and credited to the general fund;

10.4 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
10.5 subdivision 4;

10.6 (iii) \$24 shall be deposited in the county general fund for the filing of an amendment
10.7 complying with section 515B.2-110, subsection (c);

10.8 (iv) \$20 shall be deposited in the county general fund for each multiple entry used; and

10.9 (v) \$34 shall be deposited in the county general fund for the filing of a condominium
10.10 or CIC plat or amendment;

10.11 (17) for a copy of a condominium floor plan filed in accordance with chapter 515,
10.12 or a copy of a common interest community plat complying with section 515B.2-110,
10.13 subsection (c), the fee shall be \$1 for each page of the floor plan, or common interest
10.14 community plat with a minimum fee of \$10;

10.15 (18) in counties in which the compensation of the examiner of titles is paid in the same
10.16 manner as the compensation of other county employees, for each parcel of land contained
10.17 in the application for a CPT, as the number of parcels is determined by the examiner, a fee
10.18 which is reasonable and which reflects the actual cost to the county, established by the
10.19 board of county commissioners of the county in which the land is located;

10.20 (19) for filing a registered land survey in triplicate in accordance with section
10.21 508A.47, subdivision 4, \$56. Pursuant to clause (1), distribution of the fee is as follows:

10.22 (i) \$12 shall be paid to the state treasury and credited to the general fund;

10.23 (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18,
10.24 subdivision 4; and

10.25 (iii) \$34 shall be deposited in the county general fund; and

10.26 (20) for furnishing a certified copy of a registered land survey in accordance with
10.27 section 508A.47, subdivision 4, \$15.