A bill for an act

relating to real property; making clarifying, technical, and conforming changes to transfer on death deeds; expanding common element certificates of title to include planned communities; exempting designated transfers from certain requirements; establishing procedures for cartways in cities; modifying power of attorney provision relating to real property transactions; amending Minnesota Statutes 2008, sections 272.115, subdivision 1, by adding a subdivision; 435.37, by adding a subdivision; 507.071, subdivision 20, by adding a subdivision; 507.092, subdivisions 1, 2; 508.351; 508.50; 508A.351; 508A.50; 523.17, by adding a subdivision.

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

ARTICLE 1
TRANSFER ON DEATH DEEDS

Section 1. Minnesota Statutes 2008, section 507.071, subdivision 20, is amended to read:

Subd. 20. **Proof of survivorship and clearance from public assistance claims and liens; recording.** An affidavit of identity and survivorship with a certified copy of a record of death as an attachment may be combined with a clearance certificate under this section and the combined documents may be recorded separately or as one document in each county in which the real estate described in the clearance certificate is located. The affidavit must include the name and mailing address of the person to whom future property tax statements should be sent. The affidavit, record of death, and clearance certificate, whether combined or separate, shall be prima facie evidence of the facts stated in each, and the registrar of titles may rely on the statements to transfer title to the property described in the clearance certificate.

Sec. 2. Minnesota Statutes 2008, section 507.071, is amended by adding a subdivision to read:

Subd. 26. **Jurisdiction.** In counties where the district court has a probate division, actions to enforce a medical assistance lien or claim against real property described in a transfer on death deed and any matter raised in connection with enforcement shall be determined in the probate division. Notwithstanding any other law to the contrary, the provisions of section 256B.15 shall apply to any proceeding to enforce a medical assistance lien or claim under chapter 524 or 525. In other counties, the district court shall have jurisdiction to determine any matter affecting real property purporting to be transferred by a transfer on death deed.

Sec. 3. Minnesota Statutes 2008, section 507.092, subdivision 1, is amended to read:

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

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

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

Sec. 4. Minnesota Statutes 2008, section 507.092, subdivision 2, is amended to read:

Subd. 2. **Exceptions.** Subdivision 1 does not apply to any instrument executed before January 1, 1972, nor to a decree, order, judgment or writ of any court, a will or death record, a transfer on death deed or clearance certificate under section 507.071, nor to any instrument executed or acknowledged outside the state.

Sec. 5. Minnesota Statutes 2008, section 508.50, is amended to read:

508.50 INSTRUMENTS TO HAVE NAME AND ADDRESS.

Every deed or other voluntary instrument which is presented for registration shall contain or have endorsed upon it the full name and post office address of the grantee, or other person, who acquires or claims an interest under the instrument. All names and addresses shall also be entered upon the certificates of title. Any change in the post office address of the person shall be memorialized on the certificate of title upon the filing of

an affidavit from the person of the change. This section does not apply to a transfer on death deed or clearance certificate under section 507.071.

Sec. 6. Minnesota Statutes 2008, section 508A.50, is amended to read:

508A.50 INSTRUMENTS TO HAVE NAME AND ADDRESS.

Every deed or other voluntary instrument which is presented for registration shall contain or have endorsed upon it the full name and post office address of the grantee, or other person, who acquires or claims an interest under the instrument. All names and addresses shall also be entered upon the CPT. Any change in the post office address of the person shall be memorialized on the CPT upon the filing of an affidavit from the person of the change. This section does not apply to a transfer on death deed or clearance certificate under section 507.071.

Sec. 7. **EFFECTIVE DATES.**

This article is effective retroactively from August 1, 2008, and applies to instruments recorded on or after August 1, 2008, and to claims, disputes, and other matters arising from or relating to such instruments, provided however that no deed or other voluntary instrument may be refused recording on or after August 1, 2008, for failure to comply with the requirements of Minnesota Statutes, section 507.092, 508.50, or 508A.50, as appropriate, if the deed or other voluntary instrument complies with this article or the requirements of the appropriate section as it existed prior to its amendment by this article.

ARTICLE 2
COMMON ELEMENT CERTIFICATES

Section 1. Minnesota Statutes 2008, section 508.351, is amended to read:

508.351 ~~CONDOMINIUM CERTIFICATE~~ COMMON INTEREST COMMUNITY CERTIFICATE.

Subdivision 1. **Condominium declaration.** Prior to ~~filing~~ recording with the registrar of titles of a declaration or bylaws for a condominium, or an amendment to the declaration or bylaws, a determination must be made by an order of court in a proceeding subsequent to initial registration or by a written directive of the examiner of titles that the documents comply with the requirements of the applicable condominium statute.

Subd. 2. **Form of common ~~elements~~ interest community certificate of title.** Upon the ~~filing~~ recording of a declaration creating a condominium or a planned community pursuant to chapter 515B, the registrar shall issue a certificate of title, designated as a

"common ~~elements~~ interest community certificate of title," ~~("CECT")~~ ("CICCT"). It must be in substantially the following form:

COMMON ~~ELEMENTS~~ INTEREST COMMUNITY CERTIFICATE

OF TITLE ~~(CECT)~~ (CICCT)

This is the Common ~~Elements~~ Interest Community Certificate of Title for ~~Condominium~~ CIC No. .....

State of Minnesota)
) SS.
County of .....)

This is to certify that the units and common elements in ~~condominium~~ CIC No. ..... are subject to the encumbrances, liens, and interests noted by the memorials set forth as follows:

In witness whereof, I have hereunto subscribed my name and affixed the seal of my office, this ..... day of ....., ...

.....
Registrar of Titles, in and for the County of ..... and State of Minnesota

Subd. 3. **Tract index.** ~~CECTs~~ CICCTs must be maintained in the same manner as provided for certificates of title and must be indexed in the tract index as provided in section 508.37, subdivision 1a. The names of the owners in the tract index must be "~~unit~~ owners." The description of the registered land in the tract index must be "common ~~elements~~ interests" or "~~CECT~~ CICCT."

Subd. 4. **Unit and common elements certificates.** Certificates of title issued for the units described in the declaration, and for common elements described in the declaration for a planned community, must contain, ~~immediately following the description of the unit,~~ a statement in substantially the following form: "subject to encumbrances, liens, and interests noted on ~~CECT~~ (CICCT) No. ....."

Subd. 5. **Memorials.** The condominium or planned community declaration, bylaws, any amendment to the declaration or bylaws; any lien against the common elements in a condominium pursuant to chapter 514; any fixture filing pursuant to section 336.9-314 where the financing statement describes the common elements in a condominium; any easement on the common elements in a condominium pursuant to section 515B.3-102, subsection (a)(9); any instrument evidencing the transfer of a special declarant right pursuant to section 515B.3-104; and any conveyance or encumbrance of the common elements in a condominium pursuant to section 515B.3-112 must be entered as memorials

on the ~~CECT~~ CICCT only. The entry of a memorial on the CICCT shall have the same effect as if the memorial were entered on the certificates of title for the units in the common interest community and on the certificates of title for the common elements in a planned community.

Subd. 6. **Preexisting condominiums.** (a) Except as provided in paragraph (b), in the case of a condominium existing prior to August 1, ~~2001~~ 2009, on registered land, for which no ~~CECT~~ CICCT has been issued, upon the ~~filing~~ recording of a document of the kind specified in subdivision 5, the registrar shall issue a ~~CECT~~ CICCT, but documents filed prior to the issuance of the ~~CECT~~ CICCT need not be entered as memorials on the ~~CECT~~ CICCT. The registrar for no additional fee shall ~~mark by the land description~~ enter on the certificate of title for each of the units in the condominium ~~a~~ the statement ~~in substantially the following form: "subject to encumbrances, liens, and interests noted in CECT No. ....." and in future certificates for each unit in the condominium, insert immediately following the description of the unit, a statement in substantially the following form: "subject to encumbrances, liens, and interests noted on CECT No. ....."~~ specified in subdivision 4.

(b) In the case of a condominium for which a CECT has been issued pursuant to Laws 2001, chapter 50, section 4, upon the recording of a document specified in subdivision 5, the registrar shall cancel the CECT and issue a CICCT in lieu thereof. The statement on the certificate of title for each of the units in the condominium regarding the CECT shall be amended by the registrar for no additional fee to refer to the CICCT.

Subd. 7. **Preexisting planned communities.** In the case of a planned community, as defined in chapter 515B, existing prior to August 1, 2009, on registered land, for which no CICCT has been issued, upon the recording of any amendment to the declaration of the planned community which identifies the common interest community number of the planned community, the registrar shall issue a CICCT, but documents filed prior to the issuance of the CICCT need not be entered as memorials on the CICCT. The registrar for no additional fee shall enter on the certificate of title for each of the units and for the common elements in the planned community the statement specified in subdivision 4.

Sec. 2. Minnesota Statutes 2008, section 508A.351, is amended to read:

508A.351 ~~CONDOMINIUM CERTIFICATE~~ COMMON INTEREST COMMUNITY CERTIFICATE.

Subd. 1a. **Condominium declaration.** Prior to ~~filing~~ recording with the registrar of titles of a declaration or bylaws for a condominium, or an amendment to the declaration or bylaws, a determination must be made by an order of court in a proceeding subsequent to

initial registration or by a written directive of the examiner of titles that the documents comply with the requirements of the applicable condominium statute.

Subd. 2. **Removal.** The registrar of titles shall carry forward the memorial set forth in subdivision 1 until directed to remove it by a court order as provided for in section 508A.71.

Subd. 2a. **Form of common ~~elements~~ interest community certificate of title.** Upon the ~~filing~~ recording of a declaration creating a condominium or a planned community pursuant to chapter 515B, the registrar shall issue a certificate of title, designated as a "common ~~elements~~ interest community certificate of title," ~~("CECT")~~ ("CICCT"). It must be in substantially the following form:

COMMON ~~ELEMENTS~~ INTEREST COMMUNITY CERTIFICATE

OF TITLE ~~(CECT)~~ (CICCT)

This is the Common ~~Elements~~ Interest Community Certificate of Title for ~~Condominium~~ CIC No. .....

State of Minnesota)
) ss
County of .....)

This is to certify that the units and common elements in ~~condominium~~ CIC No. ..... are subject to the encumbrances, liens, and interests noted by the memorials set forth as follows:

In witness whereof, I have hereunto subscribed my name and affixed the seal of my office, this ..... day of ....., ...

.....
Registrar of Titles, in and for the
County of .....
and State of Minnesota

Subd. 3. **Tract index.** ~~CECTs~~ CICCTs must be maintained in the same manner as provided for certificates of title under chapter 508 and must be indexed in the tract index as provided in section 508.37, subdivision 1a. The names of the owners in the tract index must be "~~unit~~ owners." The description of the registered land in the tract index must be "common ~~elements~~ interests" or ~~"CECT."~~ "CICCT."

Subd. 4. **Unit and common elements certificates.** CPTs issued for the units described in the declaration, and for common elements described in the declaration for a planned community, must contain~~, immediately following the description of the unit,~~ a statement in substantially the following form: "subject to encumbrances, liens, and interests noted on ~~CECT~~ CICCT No. ....."

Subd. 5. **Memorials.** The condominium or planned community declaration, bylaws, any amendment to the declaration or bylaws; any lien against the common elements in a condominium pursuant to chapter 514; any fixture filings pursuant to section 336.9-314 where the financing statement describes the common elements in a condominium; any easement on the common elements in a condominium pursuant to section 515B.3-102, subsection (a)(9); any instrument evidencing the transfer of a special declarant right pursuant to section 515B.3-104; and any conveyance or encumbrance of the common elements in a condominium pursuant to section 515B.3-112 must be entered as memorials on the ~~CECT~~ CICCT only. The entry of a memorial on the CICCT shall have the same effect as if the memorial were entered on the certificates of title for the units in the common interest community and on the certificates of title for the common elements in a planned community.

Subd. 6. **Preexisting condominiums.** (a) Except as provided in paragraph (b), in the case of a condominium existing prior to August 1, ~~2001~~ 2009, on registered land, for which no ~~CECT~~ CICCT has been issued, upon the ~~filing~~ recording of a document of the kind specified in ~~section 508.351, subdivision 4~~ subdivision 5, the registrar shall issue a ~~CECT~~ CICCT, but documents filed prior to the issuance of the ~~CECT~~ CICCT need not be entered as memorials on the ~~CECT~~ CICCT. The registrar for no additional fee shall ~~mark by the land description~~ enter on the certificate of title for each of the units in the condominium ~~a~~ the statement ~~in substantially the following form: "subject to encumbrances, liens, and interests noted in CECT No. ....." and in future certificates for each unit in the condominium insert, immediately following the description of the Unit, a statement in substantially the following form: "subject to encumbrances, liens and interests noted on CECT No. ....."~~ specified in subdivision 4.

(b) In the case of a condominium for which a CECT has been issued pursuant to Laws 2001, chapter 50, section 4, upon the recording of a document specified in subdivision 5, the registrar shall cancel the CECT and issue a CICCT in lieu thereof. The statement on the certificate of title for each of the units in the condominium regarding the CECT shall be amended by the registrar for no additional fee to refer to the CICCT.

Subd. 7. **Preexisting planned communities.** In the case of a planned community, as defined in chapter 515B, existing prior to August 1, 2009, on registered land, for which no CICCT has been issued, upon the recording of any amendment to the declaration of the planned community which identifies the common interest community number of the planned community, the registrar shall issue a CICCT, but documents filed prior to the issuance of the CICCT need not be entered as memorials on the CICCT. The registrar for

no additional fee shall enter on the certificate of title for each of the units and for the common elements in the planned community the statement specified in subdivision 4.

Sec. 3. **EFFECTIVE DATE.**

This article is effective August 1, 2009.

ARTICLE 3
MISCELLANEOUS

Section 1. Minnesota Statutes 2008, section 272.115, subdivision 1, is amended to read:

Subdivision 1. **Requirement.** Except as otherwise provided in subdivision 5 or 5a, whenever any real estate is sold for a consideration in excess of $1,000, whether by warranty deed, quitclaim deed, contract for deed or any other method of sale, the grantor, grantee or the legal agent of either shall file a certificate of value with the county auditor in the county in which the property is located when the deed or other document is presented for recording. Contract for deeds are subject to recording under section 507.235, subdivision 1. Value shall, in the case of any deed not a gift, be the amount of the full actual consideration thereof, paid or to be paid, including the amount of any lien or liens assumed. The items and value of personal property transferred with the real property must be listed and deducted from the sale price. The certificate of value shall include the classification to which the property belongs for the purpose of determining the fair market value of the property, and shall include any proposed change in use of the property known to the person filing the certificate that could change the classification of the property. The certificate shall include financing terms and conditions of the sale which are necessary to determine the actual, present value of the sale price for purposes of the sales ratio study. If the property is being acquired as part of a like-kind exchange under section 1031 of the Internal Revenue Code of 1986, as amended through December 31, 2006, that must be indicated on the certificate. The commissioner of revenue shall promulgate administrative rules specifying the financing terms and conditions which must be included on the certificate. The certificate of value must include the Social Security number or the federal employer identification number of the grantors and grantees. However, a married person who is not an owner of record and who is signing a conveyance instrument along with the person's spouse solely to release and convey their marital interest, if any, in the real property being conveyed is not a grantor for the purpose of the preceding sentence. A statement in the deed that is substantially in the following form is sufficient to allow the county auditor to accept a certificate for filing without the Social Security number of the named spouse: "(Name) claims no ownership interest in the real property being conveyed

and is executing this instrument solely to release and convey a marital interest, if any, in that real property." The identification numbers of the grantors and grantees are private data on individuals or nonpublic data as defined in section 13.02, subdivisions 9 and 12, but, notwithstanding that section, the private or nonpublic data may be disclosed to the commissioner of revenue for purposes of tax administration. The information required to be shown on the certificate of value is limited to the information required as of the date of the acknowledgment on the deed or other document to be recorded.

Sec. 2. Minnesota Statutes 2008, section 272.115, is amended by adding a subdivision to read:

Subd. 5a. **Designated transfer exemption.** A certificate of real estate value is not required when the transfer is made by an instrument which qualifies as a designated transfer as defined in section 287.20, subdivision 3a, and the instrument indicates on the first page or the signature page that the conveyance is a designated transfer pursuant to section 287.20, subdivision 3a.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2008, section 435.37, is amended by adding a subdivision to read:

Subd. 4. **Procedure.** For the purposes of this section, the proceedings of the city council shall be in accordance with the procedures set forth in section 164.07, except that references in section 164.07 to "town," "town clerk," "town board," or "town costs" shall be construed to mean references to "city," "city clerk," "city council," or "city costs," respectively, or equivalent terms, as required by the context.

EFFECTIVE DATE. This section is effective the day following final enactment and applies only to cartway petitions filed on or after that date.

Sec. 4. Minnesota Statutes 2008, section 523.17, is amended by adding a subdivision to read:

Subd. 3. **Real property transactions on behalf of entities.** When the principal under a power of attorney in a real property transaction is a corporation, partnership, limited liability company, or trust, the provisions of section 507.24, subdivision 2, 508.48 or 508A.48, as appropriate, and of section 523.18 shall apply, and an affidavit under this section shall not be required.

EFFECTIVE DATE. This section is effective August 1, 2009, and applies to actions taken and signatures made by attorneys-in-fact on, after, or before that date.

APPENDIX
Article locations in 09-0456

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