

Section 1. Minnesota Statutes 1961, Section 161.35, is amended to read:

161.35 **Highways; employment of consultants.** Until ~~July 4, 1963,~~ *July 1, 1965*, the commissioner is authorized to employ and engage the services of registered professional engineers, ~~or~~ engineering firms, *and registered land surveyors*, to act as consultants in connection with and to prepare plans and specifications or to perform aerial photography and survey work preliminary to the preparation of plans and specifications themselves or by their organizations and employees for the construction of trunk highways, and the commissioner is authorized to negotiate for and agree upon the terms and compensation for such employment and services. If the commissioner employs and engages an engineering firm, the person or persons in responsible charge of the work or services to be performed shall be registered professional engineers *or registered land surveyors*.

Approved May 3, 1963.

CHAPTER 457—S. F. No. 557

[Coded]

An act relating to real property; providing for, among other matters, joint ownership of apartments as herein defined and for other matters pertinent thereto.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [515.01] **Apartment ownership act; short title.** This act shall be known and may be cited as the "apartment ownership act."

Sec. 2. [515.02] **Definitions.** As used in this act, unless the context otherwise requires:

(a) "Apartment" means a part of the property intended for any type of independent use, including one or more rooms or enclosed spaces located on one or more floors, or part or parts thereof, in a building, and with a direct exit to a public street or highway or to a common area leading to such street or highway.

(b) "Apartment owner" means the person or persons owning an apartment in fee simple absolute and an undivided interest in the fee simple estate of the common areas and facilities in the percentage specified and established in the declaration.

Changes or additions indicated by italics, deletions by strikeout.

(c) "Apartment number" means the number, letter, or combinations thereof, designating the apartment in the declaration.

(d) "Association of apartment owners" means all of the apartment owners acting as a group in accordance with the bylaws and declaration.

(e) "Building" means a building, containing three or more apartments, or two or more buildings, each containing two or more apartments, with a total of three or more apartments for all such buildings, and comprising a part of the property.

(f) "Common areas and facilities," unless otherwise provided in the declaration or lawful amendments thereto, means and includes:

(1) The land on which the building is located;

(2) The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, and entrances and exits of the building;

(3) The basements, yards, gardens, parking areas and storage spaces;

(4) The premises for the lodging of janitors or persons in charge of the property;

(5) Installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating;

(6) The elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use;

(7) Such community and commercial facilities as may be provided for in the declaration; and

(8) All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

(g) "Common expenses" means and include:

(1) All sums lawfully assessed against the apartment owners by the association of apartment owners;

(2) Expenses of administration, maintenance, repair or replacement of the common areas and facilities;

(3) Expenses agreed upon as common expenses by the association of apartment owners;

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(4) Expenses declared common expenses by provisions of this act, or by the declaration or the bylaws.

(h) "Common profits" means the balance of all income, rents, profits and revenues from the common areas and facilities remaining after the deduction of the common expenses.

(i) "Declaration" means the instrument by which the property is submitted to the provisions of this act, as hereinafter provided, and such declaration as from time to time may be lawfully amended.

(j) "Limited common areas and facilities" means and include those common areas and facilities designated in the declaration as reserved for use of certain apartment or apartments to the exclusion of the other apartments.

(k) "Majority" or "majority of apartment owners" means the apartment owners with 51 percent or more of the votes in accordance with the percentages assigned in the declaration to the apartments for voting purposes.

(l) "Person" means individual, corporation, partnership, association, trustee or other legal entity.

(m) "Property" means and includes the land, the building, all improvements and structures thereon, all owned in fee simple absolute and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which have been or are intended to be submitted to the provisions of this act.

(n) "Recording officer" means the register of deeds or the registrar of titles, as the case may be, of the county in which the property is situated.

Sec. 3. [515.03] **Application of act.** This act shall be applicable only to property, the sole owner or all of the owners of which submit the same to the provisions hereof by duly executing and recording a declaration as hereinafter provided.

Sec. 4. [515.04] **Status of the apartments.** Subdivision 1. Each apartment, together with its undivided interest in the common areas and facilities, shall for all purposes constitute a parcel of real property.

Subd. 2. For the purposes of the constitution and laws of the state of Minnesota, such parcel of real property is the homestead of the owner thereof, if otherwise qualified thereunder.

Sec. 5. [515.05] **Ownership of apartments.** Each apart-

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ment owner shall be entitled to the exclusive ownership and possession of his apartment.

Sec. 6. [515.06] **Common areas and facilities.** (a) Each apartment owner shall be entitled to an undivided interest in the common areas and facilities in the percentage expressed in the declaration. Such percentage shall be computed by taking as a basis the value of the apartment in relation to the value of the property.

(b) The percentage of the undivided interest of each apartment owner in the common areas and facilities as expressed in the declaration shall have a permanent character and shall not be altered without the consent of all of the apartment owners expressed in an amended declaration duly recorded. The percentage of the undivided interest in the common areas and facilities shall not be separated from the apartment to which it appertains and shall be deemed to be conveyed or encumbered with the apartment even though such interest is not expressly mentioned or described in the conveyance or other instrument.

(c) The common areas and facilities shall remain undivided and no apartment owner or any other person shall bring any action for partition or division of any part thereof, unless the property has been removed from the provisions of this act as provided in sections 16 and 26. Any covenant to the contrary shall be null and void.

(d) Each apartment owner may use the common areas and facilities in accordance with the purpose for which they were intended without hindering or encroaching upon the lawful rights of the other apartment owners.

(e) The necessary work of maintenance, repair, and replacement of the common areas and facilities and the making of any additions or improvements thereto shall be carried out only as provided herein and in the bylaws.

(f) The association of apartment owners shall have the irrevocable right, to be exercised by the manager or board of directors, to have access to each apartment from time to time during reasonable hours as may be necessary for the maintenance, repair, or replacement of any of the common areas and facilities therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the common areas and facilities or to another apartment or apartments.

Sec. 7. [515.07] **Compliance with covenants, bylaws and administrative provisions.** Each apartment owner shall comply strictly with the bylaws and with the administrative rules and regula-

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tions adopted pursuant thereto, as either of the same may be lawfully amended from time to time, and with the covenants, conditions, and restrictions set forth in the declaration or in the deed to his apartment. Failure to comply with any of the same shall be ground for an action to recover sums due, for damages or injunctive relief or both maintainable by the manager or board of directors on behalf of the association of apartment owners or, in a proper case, by an aggrieved apartment owner.

Sec. 8. **[515.08] Certain work prohibited.** No apartment owner shall do any work which would jeopardize the soundness or safety of the property, reduce the value thereof or impair any easement or hereditament without in every such case the unanimous consent of all the other apartment owners being first obtained.

Sec. 9. **[515.09] Liens against apartments; removal from lien; effect of part payment.** (a) Subsequent to recording the declaration as provided in this act, and while the property remains subject to this act, no lien shall thereafter arise or be effective against the property. During such period liens or encumbrances shall arise or be created only against each apartment and the percentage of undivided interest in the common areas and facilities, appurtenant to such apartment, in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership; provided that no labor performed or materials furnished with the consent or at the request of an apartment owner or his agent or his contractor or subcontractor shall be the basis for the filing of a lien pursuant to the lien law against the apartment or any other property of any other apartment owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any apartment in the case of emergency repairs thereto. Labor performed or materials furnished for the common areas and facilities, if duly authorized by the association of apartment owners, the manager or board of directors in accordance with this act, the declaration or bylaws, shall be deemed to be performed or furnished with the express consent of each apartment owner and shall be the basis for the filing of a lien pursuant to the lien law against each of the apartments and shall be subject to the provisions of subparagraph (b) hereunder.

(b) In the event a lien against two or more apartments becomes effective, the apartment owners of the separate apartments may remove their apartment and the percentage of undivided interest in the common areas and facilities appurtenant to such apartment from the lien by payment of the fractional or proportional amounts attributable to each of the apartments affected. Such individual pay-

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ment shall be computed by reference to the percentages appearing on the declaration. Subsequent to any such payment, discharge or other satisfaction the apartment and the percentage of undivided interest in the common areas and facilities appurtenant thereto shall thereafter be free and clear of the lien so paid, satisfied or discharged. Such partial payment, satisfaction or discharge shall not prevent the lienor from proceeding to enforce his rights against any apartment and the percentage of undivided interest in the common areas and facilities appurtenant thereto not so paid, satisfied or discharged.

Sec. 10. [515.10] **Common profits and expenses.** The common profits of the property shall be distributed among, and the common expenses shall be charged to, the apartment owners according to the percentage of the undivided interest in the common areas and facilities.

Sec. 11. [515.11] **Contents of declaration.** The declaration shall contain the following particulars:

(1) Description of the land on which the building and improvements are or are to be located.

(2) Description of the building, stating the number of stories and basements, the number of apartments and the principal materials of which it is or is to be constructed.

(3) The apartment number of each apartment, and a statement of its location, approximate area, number of rooms, and immediate common area to which it has access, and any other data necessary for its proper identification.

(4) Description of the common areas and facilities.

(5) Description of the limited common areas and facilities, if any, stating to which apartments their use is reserved.

(6) Value of the property and of each apartment, and the percentage of undivided interest in the common areas and facilities appertaining to each apartment and its owner for all purposes, including voting.

(7) Statement of the purposes for which the building and each of the apartments are intended and restricted as to use.

(8) The name of a person to receive service of process in the cases hereinafter provided, together with the residence or place of business of such person which shall be within the city or county in which the building is located.

(9) Provision as to the percentage of votes by the apartment

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owners which shall be determinative of whether to rebuild, repair, restore, or sell the property in the event of damage or destruction of all or part of the property.

(10) Any further details in connection with the property which the person executing the declaration may deem desirable to set forth consistent with this act.

(11) The method by which the declaration may be amended, consistent with the provisions of this act.

Sec. 12 [515.12] Contents of deeds of apartments. Deeds of apartments shall include the following particulars:

(1) Description of the land as provided in section 11 of this act, and the post office address of the property, including the book, page and date of recording of the declaration.

(2) The apartment number of the apartment in the declaration and any other data necessary for its proper identification.

(3) Statement of the use for which the apartment is intended and restrictions on its use.

(4) *The percentage of undivided interest appertaining to the apartment in the common areas and facilities.*

(5) Any further details which the grantor and grantee may deem desirable to set forth consistent with the declaration and this act.

Sec. 13. [515.13] Copy of the floor plans to be filed. Simultaneously with the recording of the declaration there shall be filed in the office of the recording officer a set of the floor plans of the building showing the layout, location, apartment numbers and dimensions of the apartments, stating the name of the building or that it has no name, and bearing the verified statement of a registered architect or licensed professional engineer certifying that it is an accurate copy of portions of the plans of the building as filed with and approved by the municipal or other governmental subdivision having jurisdiction over the issuance of permits for the construction of buildings. If such plans do not include a verified statement by such architect or engineer that such plans fully and accurately depict the layout, location, apartment numbers and dimensions of the apartments as built, there shall be recorded prior to the first conveyance of any apartment an amendment to the declaration to which shall be attached a verified statement of a registered architect or licensed professional engineer certifying that the plans theretofore filed, or being filed simultaneously with such amendment, fully and accurately

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depict the layout, location, apartment numbers and dimensions of the apartments as built. Such plans shall be kept by the recording officer in a separate file for each building, indexed in the same manner as a conveyance entitled to record, numbered serially in the order of receipt, each designated "apartment ownership," with the name of the building, if any, and each containing a reference to the book, page and date of recording of the declaration. Correspondingly, the record of the declaration shall contain a reference to the file number of the floor plans of the building affected thereby.

Sec. 14. [515.14] **Blanket mortgages and other blanket liens affecting an apartment at time of first conveyance.** At the time of the first conveyance of each apartment, every mortgage and other lien affecting such apartment, including the percentage of undivided interest of the apartment in the common areas and facilities, shall be paid and satisfied of record, or the apartment being conveyed and its percentage of undivided interest in the common areas and facilities shall be released therefrom by partial release duly recorded.

Sec. 15. [515.15] **Recording.**

(a) The declaration, any amendment or amendments thereof, any instrument by which the provisions of this act may be waived, and every instrument affecting the property or any apartment shall be entitled to be recorded. Neither the declaration nor any amendment thereof shall be valid unless duly recorded in the office of the register of deeds or the registrar of titles, as the case may be.

(b) In addition to the records and indexes required to be maintained by the recording officer, the recording officer shall maintain an index or indexes whereby the record of each declaration contains a reference to the record of each conveyance of an apartment affected by such declaration, and the record of each conveyance of an apartment contains a reference to the declaration of the building of which such apartment is a part.

Sec. 16. [515.16] **Removal from provisions of this act.**

(a) All of the apartment owners may remove a property from the provisions of this act by an instrument to that effect, duly recorded, provided that the holders of all liens affecting any of the apartments consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to the percentage of the undivided interest of the apartment owner in the property as hereinafter provided.

(b) Upon removal of the property from the provisions of

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this act, the property shall be deemed to be owned in common by the *apartment owners*. The *undivided interest in the property owned in common* which shall appertain to each apartment owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities.

Sec. 17. [515.17] **Removal no bar to subsequent resubmission.** The removal provided for in the preceding section shall in no way bar the subsequent resubmission of the property to the provisions of this act.

Sec. 18. [515.18] **Bylaws.** The administration of every property shall be governed by bylaws, a true copy of which shall be annexed to the declaration and made a part thereof. No modification of or amendment to the bylaws shall be valid unless set forth in an amendment to the declaration and such amendment is duly recorded.

Sec. 19. [515.19] **Contents of bylaws.** The bylaws may provide for the following:

(a) The election from among the apartment owners of a board of directors, the number of persons constituting the same, and that the terms of at least one third of the directors shall expire annually; the powers and duties of the board; the compensation, if any, of the directors; the method of removal from office of directors; and whether or not the board may engage the services of a manager or managing agent.

(b) Method of calling meetings of the apartment owners; what percentage, if other than a majority of apartment owners, shall constitute a quorum.

(c) Election of a president from among the board of directors who shall preside over the meetings of the board of directors and of the association of apartment owners.

(d) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded.

(e) Election of a treasurer who shall keep the financial records and books of account.

(f) Maintenance, repair and replacement of the common areas and facilities and payments therefor, including the method of approving payment vouchers.

(g) Manner of collecting from the apartment owners their share of the common expenses.

(h) Designation and removal of personnel necessary for the

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maintenance, repair and replacement of the common areas and facilities.

(i) Method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the common areas and facilities.

(j) Such restrictions on and requirements respecting the use and maintenance of the apartments and the use of the common areas and facilities, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective apartments and of the common areas and facilities by the several apartment owners.

(k) The percentage of votes required to amend the bylaws.

(l) Other provisions as may be deemed necessary for the administration of the property consistent with this act.

Sec. 20. **[515.20] Books of receipts and expenditures; availability for examination.** The manager or board of directors, as the case may be, shall keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the common areas and facilities, specifying and itemizing the maintenance and repair expenses of the common areas and facilities and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available for examination by the apartment owners at convenient hours of week days.

Sec. 21. **[515.21] Waiver of use of common areas and facilities; abandonment of apartment.** No apartment owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common areas and facilities or by abandonment of his apartment.

Sec. 22. **[515.22] Separate taxation.** Each apartment and its percentage of undivided interest in the common areas and facilities shall be deemed to be a parcel of real property and shall be subject to separate assessment and taxation by the state of Minnesota or any taxing subdivision thereof for all types of taxes authorized by law including but not limited to special ad valorem levies and special assessments. Neither the building, the property nor any of the common areas and facilities shall be deemed to be a separate parcel of real property.

Sec. 23. **[515.23] Priority of lien.**

(a) All sums assessed by the association of apartment owners but unpaid for the share of the common expenses chargeable to any

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apartment shall constitute a lien on such apartment prior to all other liens except only (i) tax liens on the apartment, including assessments for sewers, grading or paving of streets and other improvements thereof, in favor of the state of Minnesota or any taxing subdivision thereof, and (ii) all sums unpaid on the first mortgage of record. Such lien may be foreclosed by suit by the manager or board of directors, acting on behalf of the apartment owners, in like manner as a mortgage of real property. In any such foreclosure the apartment owner shall be required to pay a reasonable rental for the apartment, if so provided in the bylaws, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same. The manager or board of directors, acting on behalf of the apartment owners, shall have power, unless prohibited by the declaration, to bid in the apartment at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same.

(b) Where the mortgagee of a first mortgage of record or other purchaser of an apartment obtains title to the apartment as a result of foreclosure of the first mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of the common expenses or assessments by the association of apartment owners chargeable to such apartment which became due prior to the acquisition of title to such apartment by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the apartment owners including such acquirer, his successors and assigns.

Sec. 24.[515.24] Joint and several liability of grantor and grantee for unpaid common expenses. In a voluntary conveyance the grantee of an apartment shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the manager or board of directors, as the case may be, setting forth the amount of the unpaid assessments against the grantor and such grantee shall not be liable for, nor shall the apartment conveyed ~~by~~ subject to a lien for any unpaid assessments against the grantor in excess of the amount therein set forth.

Sec. 25. [515.25] Insurance. The manager or the board of directors, if required by the declaration, bylaws or by a majority of the apartment owners, or at the request of a mortgagee having a first mortgage of record covering an apartment, shall have the authority to,

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and shall, obtain insurance for the property against loss or damage by fire and such other hazards under such terms and for such amounts as shall be required or requested. Such insurance coverage shall be written on the property in the name of such manager or of the board of directors of the association of apartment owners, as trustee for each of the apartment owners in the percentages established in the declaration. Premiums shall be common expenses. Provision for such insurance shall be without prejudice to the right of each apartment owner to insure his own apartment for his benefit.

Sec. 26. [515.26] Disposition of property; destruction or damage. If, within 90 days of the date of the damage or destruction to all or part of the property, it is not determined by the association of apartment owners to repair, reconstruct or rebuild, then and in that event:

(a) The property shall be deemed to be owned in common by the apartment owners;

(b) The undivided interest in the property owned in common which shall appertain to each apartment owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities;

(c) Any liens affecting any of the apartments shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the apartment owner in the property as provided herein; and

(d) The property shall be subject to an action for partition at the suit of any apartment owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the apartment owners in a percentage equal to the percentage of undivided interest owned by each owner in the property, after first paying out of the respective shares of the apartment owners, to the extent sufficient for the purpose, all liens on the undivided interest in the property owned by each apartment owner.

Sec. 27. [515.27] Actions. Without limiting the rights of any apartment owner, actions may be brought by the manager or board of directors, in either case in the discretion of the board of directors, on behalf of two or more of the apartment owners, as their respective interest may appear, with respect to any cause of action relating to the common areas and facilities or more than one apartment. Service of process on two or more apartment owners in any action relating to the common areas and facilities or more than one

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apartment may be made on the person designated in the declaration to receive service of process.

Sec. 28. [515.28] **Personal application.**

(a) All apartment owners, tenants of such owners, employees of owners and tenants, or any other persons that may in any manner use property or any part thereof submitted to the provision of this act shall be subject to this act and to the declaration and bylaws of the association of apartment owners adopted pursuant to the provisions of this act.

(b) All agreements, decisions and determinations lawfully made by the association of apartment owners in accordance with the voting percentages established in the act, declaration or bylaws shall be deemed to be binding on all apartment owners.

Sec. 29. [515.29] **Severability.** If any provision of this act or any section, sentence, clause, phrase or word, or the application thereof in any circumstance is held invalid, the validity of the remainder of the act and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances shall not be affected thereby.

Approved May 3, 1963.

CHAPTER 458—S. F. No. 629

An act to provide for a highway safety account and providing for the supervision and allocation and disbursement thereof; amending Minnesota Statutes 1961, Sections 161.47, Subdivision 5; and 219.40; and appropriating money therefor.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [219.401] **Highway Safety Account.** Subdivision 1. *There is hereby created in the treasury of the state a Minnesota highway safety account which shall consist of the moneys hereinafter appropriated and which shall be supervised, regulated and controlled by the Minnesota railroad and warehouse commission as hereinafter provided.*

Sec. 2. Minnesota Statutes 1961, Section 219.40, is amended to read as follows:

219.40 **Determination; order; flagmen or safety device.**

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.