

fix the salary for the county attorney of said county at such amount as determined by the board, the salary to be paid monthly.

Sec. 2. All prior salary payments authorized by the board of county commissioners of Washington county and paid to the county attorney in absence of statutory authority are hereby legalized and made valid.

Sec. 3. This act shall become effective upon approval by a resolution adopted by the board of county commissioners of the county of Washington and upon compliance with the provisions of Minnesota Statutes, Section 645.021.

Approved May 22, 1965.

CHAPTER 602—S. F. No. 1198

[Coded]

An act relating to real property; the apartment ownership act; amending Laws 1963, Chapter 457, Sections 2, 9, 13, 23, 25 and 26.

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

Section 1. Laws 1963, Chapter 457, Section 2, is amended to read:

Sec. 2. **[515.02] Apartment ownership act; definitions. Subdivision 1.** As used in this act, unless the context otherwise requires; , *the following words and terms have the meanings ascribed to them in this section.*

Subd. 2. (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, intended for any type of independent use, including, but not restricted to, commercial, industrial, or residential use.

Subd. 3. (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.

Subd. 4. (e) "Apartment number" means the number, letter, or combinations thereof, designating the apartment in the declaration.

Subd. 5. (d) "Association of apartment owners" means all of the apartment owners acting as a group in accordance with the bylaws and declaration.

Subd. 6. (c) "Building" means a building, containing ~~three~~ *two* or more apartments, or two or more buildings, each containing two or more apartments, with a total of ~~three~~ *two* or more apartments for all such buildings, and comprising a part of the property.

Subd. 7. (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.

Subd. 8. (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;

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

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

Subd. 9. (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.

Subd. 10. (i) "Declaration" means the instrument by which the property is submitted to the provisions of this ~~act~~ *chapter*, as hereinafter provided, and such declaration as from time to time may be lawfully amended.

Subd. 11. (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.

Subd. 12. (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.

Subd. 13. (l) "Person" means individual, corporation, partnership, association, trustee or other legal entity.

Subd. 14. (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~~ *chapter*.

Subd. 15. (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. 2. Laws 1963, Chapter 457, Section 9, is amended to read:

[515.09] Liens against apartments; removal from lien; effect of part payment. (a) *Subdivision 1.* Subsequent to recording the ~~declaration as provided in this act~~ *first conveyance of the first apartment which is conveyed*, 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

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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 *Laws 1963, Chapter 457*, 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)~~ *subdivision 2* hereunder.

~~(b)~~ *Subd. 2.* 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 payment 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. 3. *Laws 1963, Chapter 457, Section 13, is amended to read:*

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, *or registered land*

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surveyor 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, *or registered land surveyor* 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, *or registered land surveyor* certifying that the plans theretofore filed, or being filed simultaneously with such amendment, fully and accurately 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. 4. Laws 1963, Chapter 457, Section 23, is amended to read:

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 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.

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(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. 5. Laws 1963, Chapter 457, Section 25, is amended to read:

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, 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 *as are covered under standard extended coverage provisions for the full insurable replacement costs of the common areas and facilities and the apartments.* Such insurance coverage shall be written on the property in the name of, *and the proceeds thereof shall be payable to,* 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. 6. Laws 1963, Chapter 457, Section 26, is amended to read:

Sec. 26. [515.26] **Disposition of property where it is damaged by fire or other disaster.** *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 In case of fire or other disaster, if a majority of the apartment owners and all other parties in interest do not voluntarily make provision for reconstruction of the building within 180 days from the date of damage or destruction, the manager or the board of directors of the association of apartment owners shall file for record with the recording officer a notice setting forth such facts and upon the recording of such notice:*

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(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. 7. *This act shall become effective upon its passage.*

Approved May 22, 1965.

CHAPTER 603—S. F. No. 1271

[Not Coded]

An act relating to the firemen's relief association of the city of Litchfield in Meeker county; providing for payment of certain firemen's service pensions under certain conditions.

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

Section 1. **Litchfield, city of; firemen's relief.** The firemen's relief association of Litchfield in Meeker county may pay a firemen's service pension to each of its members who has done or hereafter shall do active duty for 15 years as a member of the fire department of Litchfield, and who is otherwise eligible under the laws applicable to said relief association and the bylaws thereof, in an amount equal to 50 percent of what he would be entitled to be paid after 20 years of service as a member of said fire department, and

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