
CHAPTER 51—H.F.No.843

An act relating to housing and redevelopment authorities; providing that by agreement a housing and redevelopment authority may exercise powers in a county or municipality which has no active housing and redevelopment authority; amending Minnesota Statutes 1978, Section 462.445, Subdivision 5.

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

Section 1. Minnesota Statutes 1978, Section 462.445, Subdivision 5, is amended to read:

Subd. 5. **EXERCISE OF POWERS.** An authority may exercise all or any part or combination of the powers granted by sections 462.415 to 462.711 within its area of operation. Any two or more authorities may join or cooperate with one another in the exercise, either jointly or otherwise, of any or all of their powers for the purpose of financing, including the issuance of bonds, notes, or other obligations and giving security therefor, planning, undertaking, owning, constructing, operating, or contracting with respect to a housing project or projects located within the area of operation of any one or more of said authorities. For such purpose an authority may by resolution prescribe and authorize any other housing authority or authorities, so joining or cooperating with it, to act on its behalf with respect to any or all powers, as its agent or otherwise, in the name of the authority or authorities so joining or cooperating or in its own name.

A county or municipality may join or cooperate with any authority to permit the authority, on behalf of the county or municipality, to plan, undertake, administer, and carry out a leased existing housing assistance payments program, pursuant to Section 8 of the United States Housing Act of 1937 as amended, 42 United States Code Section 1437 f. A municipality may so join or cooperate with an authority unless there is an authority in the municipality which has been authorized by resolution under section 462.425 to transact business or exercise powers. A county may so join or cooperate with an authority unless (a) there is a county authority which has been authorized by resolution under section 462.426 to transact business or exercise powers, or the county is a member of a multicounty authority, and (b) the authority has initiated or has in progress an active program or has applied for federal assistance in a public housing or redevelopment program within 12 months after its establishment.

Approved April 30, 1979.

CHAPTER 52—S.F.No.52

An act relating to the uniform commercial code; providing for the appropriation of the proceeds of bulk transfers; providing for the payment of creditors; amending Minnesota Statutes 1978, Sections 336.6-107; 336.6-108; and 336.6-109; and Chapter 336, by adding a

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section.

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

Section 1. Minnesota Statutes 1978, Chapter 336, is amended by adding a section to read:

[336.6-106] APPLICATION OF THE PROCEEDS. In addition to the requirements of the two preceding sections:

(1) Upon every bulk transfer subject to this article for which new consideration becomes payable except those made by sale at auction it is the duty of the transferee to assure that the new consideration is applied so far as necessary to pay those debts of the transferor which are either shown on the list furnished by the transferor (section 336.6-104) or filed in writing in the place stated in the notice (section 336.6-107) within 30 days after the mailing of the notice. This duty of the transferee runs to all the holders of shown or filed debts, and may be enforced by any of them for the benefit of all;

(2) If any of the debts are in dispute the necessary sum may be withheld from distribution until the dispute is settled or adjudicated;

(3) If the consideration payable is not enough to pay all the debts in full, distribution shall be made pro rata unless there is an agreement among the creditors to distribute the proceeds on another basis;

(4) The transferee may within ten days after he takes possession of the goods pay the consideration into the district court in the county where the transferor had its principal place of business in this state and thereafter may discharge his duty under this section by giving notice by certified mail to all the persons to whom the duty runs that the consideration has been paid into that court and that they should file their claims there. On motion of any interested party, the court may order the distribution of the consideration to the persons entitled to it.

Sec. 2. Minnesota Statutes 1978, Section 336.6-107, is amended to read:

336.6-107 **THE NOTICE.** (1) The notice to creditors (section 336.6-105) shall state:

(a) That a bulk transfer is about to be made; and

(b) The names and business addresses of the transferor and transferee, and all other business names and addresses used by the transferor within three years last past so far as known to the transferee; and

(c) Whether or not all the debts of the transferor are to be paid in full as they fall due as a result of the transaction, and if so, the address to which creditors should send their bills.

(2) If the debts of the transferor are not to be paid in full as they fall due or if the

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transferee is in doubt on that point then the notice shall state further:

(a) The location and general description of the property to be transferred and the estimated total of the transferor's debts;

(b) The address where the schedule of property and list of creditors (section 336.6-104) may be inspected;

(c) Whether the transfer is to pay existing debts and if so the amount of such debts and to whom owing;

(d) Whether the transfer is for new consideration and if so the amount of such consideration and the time and place of payment ;

(e) If the transfer is for new consideration, the time and place where creditors of the transferor are to file their claims .

(3) The notice in any case shall be delivered personally or sent by registered or certified mail to all the persons shown on the list of creditors furnished by the transferor (section 336.6-104) and to all other persons who are known to the transferee to hold or assert claims against the transferor.

Sec. 3. Minnesota Statutes 1978, Section 336.6-108, is amended to read:

336.6-108 **AUCTION SALES; "AUCTIONEER"**. (1) A bulk transfer is subject to this article even though it is by sale at auction, but only in the manner and with the results stated in this section.

(2) The transferor shall furnish a list of his creditors and assist in the preparation of a schedule of the property to be sold, both prepared as before stated (section 336.6-104).

(3) The person or persons other than the transferor who direct, control or are responsible for the auction are collectively called the "auctioneer." The auctioneer shall:

(a) Receive and retain the list of creditors and prepare and retain the schedule of property for the period stated in this article (section 336.6-104);

(b) Give notice of the auction personally or by registered or certified mail at least ten days before it occurs to all persons shown on the list of creditors and to all other persons who are known to him to hold or assert claims against the transferor ;

(c) Assure that the net proceeds of the auction are applied as provided in this article (section 336.6-106) .

(4) Failure of the auctioneer to perform any of these duties does not affect the validity of the sale or the title of the purchasers, but if the auctioneer knows that the auction constitutes a bulk transfer such failure renders the auctioneer liable to the creditors of the transferor as a class for the sums owing to them from the transferor up to

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but not exceeding the net proceeds of the auction. If the auctioneer consists of several persons their liability is joint and several.

Sec. 4. Minnesota Statutes 1978, Section 336.6-109, is amended to read:

336.6-109 WHAT CREDITORS PROTECTED. (1) *The creditors of the transferor mentioned in this article are those holding claims based on transactions or events occurring before the bulk transfer, but creditors who become such after notice to creditors is given (sections 336.6-105 and 336.6-107) are not entitled to notice.*

(2) Against the aggregate obligation imposed by the provisions of this article concerning the application of the proceeds (section 336.6-106 and subsection (3)(c) of 336.6-108) the transferee or auctioneer is entitled to credit for sums paid to particular creditors of the transferor, not exceeding the sums believed in good faith at the time of the payment to be properly payable to the creditors.

Approved April 30, 1979.

CHAPTER 53—S.F.No.63

An act relating to civil actions; providing for the issuance of process in proceedings supplementary to execution; amending Minnesota Statutes 1978, Section 575.02.

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

Section 1. Minnesota Statutes 1978, Section 575.02, is amended to read:

575.02 ORDER FOR EXAMINATION OF DEBTOR. When an execution against property of the judgment debtor, or of any one of several debtors in the same judgment, is issued to the sheriff of the county where he resides, or, if he does not reside in the state, to the sheriff of a county where the judgment roll, or a transcript of a judgment, is filed, is returned unsatisfied, in whole or in part, the judgment creditor is entitled to an order from the judge of the district court of the district where the debtor resides judgment was originally docketed or is subsequently filed, ~~or, if the debtor be not a resident of the state, then from the district where such judgment roll or transcript of the justice's judgment is filed~~, requiring the judgment debtor, or, if a corporation, any officer thereof, to appear and answer concerning his or its property, at a time and place specified in the order, before such a judge or a referee therein named. If the person required to answer is, at the time of the service of the order, a resident of the state, or has an office in the state for the regular transaction of his business in person, he cannot be compelled to attend, pursuant to the order or to any adjournment, at a place without the county where his residence or place of business is situated.

Approved April 30, 1979.

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