

CHAPTER 396 — S.F.No. 1088

An act relating to real property; providing for the registration of certain possessory estates in real property without court proceedings; providing for a changeover from a certificate of possessory title to a certificate of title after a certain number of years; proposing new law coded as Minnesota Statutes, Chapter 508A.

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

Section 1. [508A.01] REGISTRATION; PURPOSE; DEFINITION.

Subdivision 1. PROCEDURE. The procedures for registration under sections 1 to 76 provide an alternative to registration under chapter 508, and are intended for uncontested titles. Upon the written recommendation of the county recorder, the county board of county commissioners of any county, by resolution, may authorize the possessory title to real estate in that county to be registered in accordance with the provisions of and in the manner provided in sections 1 to 76.

Subd. 2. PURPOSE. The purpose of sections 1 to 76 is to provide a voluntary procedure for registration of certain possessory estates in land with certainty, at reasonable cost and speed, and without the necessity for the initial adjudication required by chapter 508, and to provide for initial registration of land under a certificate of possessory title ("CPT"). Upon the expiration of five years from the date the examiner's supplemental directive is filed on the CPT, the registrar of titles shall cancel the CPT and issue a certificate of title as provided in section 76, subdivisions 2 and 3.

Subd. 3. DEFINITION. For the purposes of sections 1 to 76, the term "possessory estate in land" means a fee simple estate held by an owner who (1) has been found on examination by the examiner of titles pursuant to section 13 to be the record owner of the land described; (2) has satisfied the examiner of titles that he and his predecessors in title have had actual or constructive possession of the land described for a period of not less than 15 consecutive years prior to the date of entry of the first CPT; and (3) has paid the taxes on the land described for at least five consecutive years during the 15 year period.

Sec. 2. [508A.02] REGISTERED LAND SUBJECT TO SAME INCIDENTS AS UNREGISTERED.

Subdivision 1. EFFECT OF REGISTRATION. Land registered under sections 1 to 76 shall be registered subject to the rights of persons in possession, if any, and rights which would be disclosed by a survey, except that no title in derogation of that of the registered owner shall be acquired by prescription or adverse possession after the date of the first CPT; otherwise, land registered under sections 1 to 76 shall be subject to the same rights, protections, burdens, and incidents which attach by law to lands as provided in Minnesota Statutes, Section 508.02.

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Subd. 2. DISTRICT COURT JURISDICTION. District court jurisdiction for all proceedings subsequent to the initial CPT shall be as provided in Minnesota Statutes, Chapter 508.

Sec. 3. [508A.03] APPLICATION.

An application for registration of a possessory estate in land under a CPT may be made by any person or persons who may register land initially under section 508.03, provided they have a possessory estate in land as defined in section 1, subdivision 3.

Sec. 4. [508A.04] TITLES WHICH MAY BE REGISTERED.

Subdivision 1. APPLICANT'S RIGHT TO CHANGEOVER. Any applicant holding a possessory estate in land as defined in section 1, subdivision 3, may apply for registration under sections 1 to 76 and, once qualified, may changeover from a CPT to a certificate of title pursuant to section 76.

Subd. 2. APPLICATION OF CPTS. Except as provided in subdivision 1, section 508.04, subdivision 1, applies with equal force and effect to CPTs under sections 1 to 76.

Sec. 5. [508A.05] APPLICATIONS; HOW SIGNED AND VERIFIED.

The application for a CPT shall be signed and verified as provided in Minnesota Statutes, Section 508.05.

Sec. 6. [508A.06] CONTENTS OF APPLICATION; RIGHTS AND PRIVILEGES OF CLAIMANTS.

The application shall set forth substantially:

(1) The full name, age, and residence of the applicant; if the application is made by any person acting in behalf of another, the application shall likewise state the full name and residence of the person so acting, and the capacity in which he acts;

(2) Whether the applicant is or is not married and if married, the full name and residence of the husband or wife; it shall state that the applicant is under no disability and whether the applicant has ever been divorced and if so, when, where, and by what court the divorce was granted;

(3) A correct description of the land, together with the estimated market value of the fee simple interest in it, exclusive of improvements, according to the last official assessment;

(4) The estate or interest of the applicant in the land, and whether or not it is subject to an estate of homestead;

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(5) The names of all persons or parties, except the applicant, who appear of record, or who are known to the applicant to have or to claim any right, title, estate, lien, or interest in the land and the nature and character of it;

(6) Whether the land is occupied or unoccupied; if occupied by any other person than the applicant, it shall state the full name and address of each occupant and the nature of the estate, interest, lien, or charge which the occupant or occupants have, or claim to have, in the land;

(7) Whether the land is subject to any lien or encumbrance, recorded or unrecorded, together with the character and amount of the same, and the name and post office address of each holder thereof; if recorded, it shall state the place, book, and page of record;

(8) If the application is on behalf of a minor, it shall state the age of the minor and that a duly certified copy of the letters of guardianship has been recorded with the county recorder in the county in which the land is situated;

(9) When the place of residence of any person whose residence is required to be given is unknown to the applicant, it shall be so stated in the application and also that, after due and diligent search, the applicant has been unable to ascertain it;

(10) The facts supporting applicant's claim to a possessory estate in land as defined in section 1, subdivision 3.

Sec. 7. [508A.07] NONRESIDENT APPLICANT; AGENT.

If the applicant is not a resident of the state, he shall file for record with the county recorder a written agreement, duly executed and acknowledged, appointing an agent residing in the state. He shall state in it the full name and post office address of this agent and agree in it that the service of any legal process in proceedings under or growing out of any application shall be of the same legal effect when made on this agent as if made on the applicant within the state. If the agent so appointed dies or removes from the state, the applicant shall at once appoint another agent in like manner and, if he fails so to do, the examiner of titles may in his discretion dismiss the application. In any subsequent application made by the applicant, he may refer to the written authority so recorded, provided it is sufficiently comprehensive to include the subsequent application.

Sec. 8. [508A.08] LANDS INCLUDED IN APPLICATION.

Any number of adjoining tracts of land in the same county and owned by the same person and in the same right, or any number of tracts of land in the same county having the same chain of title, and belonging to the same person may be included in one application. When approved by the examiner of titles on petition of the applicant or applicants, non-adjoining tracts of land owned by the same person or persons in the same right having different chains of title may be included in one application.

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Sec. 9. [508A.09] AMENDMENT.

Amendments to the application may be allowed by the examiner of titles at any time upon terms that are just and reasonable, but all amendments shall be in writing and signed and verified like the original application.

Sec. 10. [508A.10] APPLICATION TO EXAMINER; POWERS OF EXAMINER.

An application for registration for a CPT shall be addressed to the examiner of titles in and for the county in which the land described is situated. The examiner shall have the powers provided in sections 1 to 76 including but not limited to the following:

- (1) To approve all applications prior to filing of record;
- (2) To require an abstract of title with searches and recertifications as desired;
- (3) To require that mailed notice be given to the holders of any interest, when their addresses are known;
- (4) To issue examiner's reports, supplemental reports, initial directives, and supplemental directives to the registrar regarding initial CPTs, owner's duplicates pursuant to section 37 or memorials upon any CPT pursuant to section 64;
- (5) To require the county surveyor to review the proposed legal description of any CPT or to inspect the real property;
- (6) To suspend any proceeding hereunder upon receipt of any valid written objections by persons claiming an interest in the real property; and
- (7) To require proceedings subsequent to the initial CPT as may be necessary to achieve the purposes of sections 1 to 76, or to certify instruments transferring title pursuant to sections 52, 55, and 62.

Sec. 11. [508A.11] APPLICATION FILED WITH REGISTRAR; ADDITIONAL MATERIALS FOR EXAMINER.

Subdivision 1. APPLICATION FILED WITH COUNTY RECORDER. After approval by the examiner of titles, the application for a CPT shall be filed for record in the office of the county recorder, and shall be notice forever to all purchasers and encumbrancers of the pendency of the registration and of all matters referred to in the files and records of the examiner of titles and of the registrar of titles pertaining to the registration.

Subd. 2. ABSTRACT SUPPLIED. An abstract of title certified or recertified in a manner satisfactory to the examiner of titles shall be delivered to the examiner. In the event the examiner refuses to direct the issuance of a CPT, the abstract shall be returned. Otherwise, the abstract shall be returned to the

applicant only at the time and under the conditions as the examiner shall determine.

Sec. 12. [508A.12] EXAMINER OF TITLES; DEPUTIES.

The examiner of titles and deputy examiners shall be those appointed pursuant to the provisions of section 508.12 and shall hold office and be compensated as provided in that section.

Sec. 13. [508A.13] EXAMINER'S REPORTS.

Subdivision 1. EXAMINATION OF DOCUMENTS. After the filing of the application for a CPT, the examiner of titles shall proceed to prepare a full written report to the applicant or his attorney based upon his examination of the application, abstract of title, and the public records.

Subd. 2. REPORT. The examiner's report shall set forth all rights, titles, estates, liens, and interests in the real property. When in the opinion of the examiner the state has any interest in or lien upon the real property, this shall be fully set forth. The report shall be mailed to the applicant or his attorney and a copy shall be retained by the examiner.

Subd. 3. SUSPENSION OF PROCEEDINGS. The proceeding shall be suspended so long as the report of the examiner is adverse to the applicant or so long as valid written objections are still outstanding. The examiner shall mail written notice of the suspension to the applicant or his attorney.

Subd. 4. MAILED NOTICE. The applicant or his attorney shall furnish the examiner on a prescribed form a list of the names and addresses of the persons listed by the examiner as having any right, title, estate, lien, or interest in the land sought to be registered under sections 1 to 76. If the addresses of any of these persons cannot be ascertained after a due and diligent search, the applicant or his attorney shall certify that fact.

There also shall be furnished to the examiner stamped envelopes addressed to those parties listed by the examiner whose addresses can be ascertained and a copy of the notice for each of these parties in the form prescribed in subdivision 5. The examiner shall then send by mail a copy of the notice to each of these parties. The certificate of the examiner that he has mailed the notice shall be conclusive proof of mailing and shall be retained as a part of his files.

Subd. 5. FORM OF NOTICE. The examiner's notice shall be substantially in the following form:

**NOTICE OF APPLICATION FOR CERTIFICATE OF
POSSESSORY TITLE**

NOTICE IS HEREBY GIVEN, That has made application for the issuance of a Certificate of Possessory Title pursuant to sections 1 to 76 for land

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lying and being in the State of Minnesota, County of, described as follows:

(Description of land)

Subject to:

(List encumbrances)

NOTICE is further given that a Certificate of Possessory Title containing only the encumbrances as described above will be issued to the applicant unless a valid written objection is submitted to the Examiner of Titles within 20 days from, 19..., the date of mailing of this notice.

Signed
Examiner of Titles

Address
.....

Subd. 6. DUTY TO ADVISE REGISTRAR. The examiner, upon the request of the registrar, shall advise him upon any act or duty pertaining to the conduct of his office, and prepare the form of any memorial to be entered by the registrar.

Sec. 14. [508A.14] COUNTY SURVEYOR.

At the request of the examiner of titles, the county surveyor shall perform the functions set forth in section 508.14. All plats of survey made by the county surveyor pursuant to this section shall be filed with the examiner or registrar.

Sec. 15. [508A.17] LIMITATION ON ACTIONS.

Subdivision 1. LIMITATION. As against a title to land registered under a CPT which has been entered and maintained by the registrar under sections 1 to 76, no action affecting the possession or title to the land shall be commenced by any person, partnership, corporation, state, or political subdivision to enforce any right, title, estate, lien, or interest founded upon any instrument, event, or transaction which was executed or occurred before the entry of the first CPT and which is not set out as a separate memorial on the CPT or covered by section 19, clauses (1) to (5) unless the action is commenced and a notice of lis pendens of it is registered upon the CPT within a period of five years from the date the examiner's supplemental directive is filed on the CPT.

Subd. 2. NO ADVERSE INTEREST RENEWED. Any claimant to any interest adverse to the applicant already barred by some other statute or rule of law shall not acquire any renewed rights or extensions by reason of sections 1 to 76.

Sec. 16. [508A.21] WITHDRAWAL OF APPLICATION FOR CPT; CONVERSION TO A FULL REGISTRATION.

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At any time prior to the issuance of the first CPT, the applicant or his successor in interest may withdraw the application by filing for record in the office of the county recorder a verified statement of withdrawal, and a duplicate of it shall be delivered to the examiner of titles. The applicant may convert his application to a full registration pursuant to chapter 508, at any time provided that he comply with all of the requirements of it. If any proceeding has been suspended as provided in section 13, subdivision 3, for more than 30 days, the examiner may file in the office of the county recorder a notice of termination of the proceeding.

Sec. 17. [508A.22] EXAMINER'S DIRECTIVE; SUPPLEMENTAL DIRECTIVES; FEES.

Subdivision 1. DIRECTIVE. The examiner of titles, upon being satisfied that the applicant is entitled to a CPT, but not earlier than 20 days from the date of mailing of the notice required by section 13, shall issue a written directive to the registrar of titles directing that the first CPT be issued and entered in the name of the applicant, subject only to the following: (a) the exceptions set out in section 19; (b) all outstanding rights, titles, estates, liens, and interests set forth in the examiner's report; and (c) the rights of persons in possession, if any, and any rights which would be disclosed by a survey. The examiner's directive shall contain an accurate description of the land and shall set forth the address of the applicant and, if the applicant be an individual, his age and whether married or unmarried, and if married, the name of the husband or wife; if the applicant is under disability, the nature of it shall be stated. From the date of filing the examiner's directive with the registrar of titles, all instruments affecting title to the land which are registered shall be filed in the office of the registrar of titles and be memorialized upon the CPT.

Subd. 2. SUPPLEMENTAL DIRECTIVE. When the directive has been issued pursuant to subdivision 1, the abstract of title shall be continued through the date the directive was filed with the registrar of titles and then delivered to the examiner. If the examiner determines that the applicant is the record owner after an examination of the continued abstract and the public records, he shall issue a supplemental directive to the registrar of titles directing him to show by memorial that the five year statute of limitations provided by section 15 will begin on the date the supplemental directive is filed on the CPT, to show as memorials any additional liens, encumbrances, or other interests affecting the land, and to delete the memorials of any liens, encumbrances or other interests which were satisfied, released or discharged prior to the issuance of the CPT. The supplemental directive of the examiner shall then be filed as a memorial upon the CPT. Each additional lien, encumbrance, or other interest noted in the supplemental directive shall be shown as a separate memorial on the CPT in addition to the memorial of the supplemental directive. The abstract of title shall be delivered to the registrar of titles and be retained by him, but it shall not be entered as a memorial on the CPT. Until the abstract of title has been delivered

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to the registrar of titles, he shall not deliver the owner's duplicate CPT to the registered owner nor shall he accept for filing any instrument executed by the registered owner.

Subd. 3. FEES. Upon the filing with the registrar of titles of the examiner's directive pursuant to subdivision 1, there shall be paid to the registrar: (1) the fee provided by section 72, clause (2), for registering an original CPT, and (2) the fee provided by section 508.74, which shall be paid to the state treasurer pursuant to section 508.75. Upon filing with the registrar of titles the supplemental directive of the examiner, there shall be paid to the registrar of titles the fee for the entry of a memorial pursuant to section 72, clause (4).

Sec. 18. [508A.24] REGISTRATION RUNS WITH LAND.

The receiving of a CPT shall be deemed to be an agreement running with the land and binding upon the applicant and his successors in the possessory title to the effect that the land shall be and forever remain registered land, subject to the provisions of sections 1 to 76. All dealings with the land, or any estate or interest in it, after the land has been registered shall be expressly subject to the terms and provisions of sections 1 to 76.

Sec. 19. [508A.25] RIGHTS OF PERSON HOLDING CPT.

Every person holding a CPT issued pursuant to sections 1 to 76 who has acquired title in good faith and for a valuable consideration shall hold the same free from all encumbrances and adverse claims, excepting only estates, mortgages, liens, charges, and interests as may be noted by separate memorials in the latest CPT in the office of the registrar, and also excepting the memorial provided in section 28 and any of the following rights or encumbrances subsisting against the same, if any:

(1) Liens, claims, or rights arising or existing under the laws or the constitution of the United States, which this state cannot require to appear of record;

(2) The lien of any tax or special assessment for which the land has not been sold at the date of the CPT;

(3) Any lease for a period not exceeding three years when there is actual occupation of the premises under it;

(4) All rights in public highways upon the land;

(5) The rights of any person in possession under deed or contract for deed from the owner of the CPT.

(6) Any liens, encumbrances, and other interests that may be contained in the examiner's supplemental directive issued pursuant to section 17, subdivision 2; and

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(7) Any claims that may be made pursuant to section 15 within five years from the date the examiner's supplemental directive is filed on the CPT.

Sec. 20. [508A.27] TITLE ACQUIRED PENDING ISSUANCE OF EXAMINER'S SUPPLEMENTAL DIRECTIVE.

If, after the issuance of a CPT in favor of the applicant, the records disclose that the applicant's estate in the land has been transferred to another person prior to the issuance of the CPT, the examiner shall not issue his supplemental directive until an application by the transferee has been filed in the manner provided in sections 1 to 76. Upon the filing of the application and being satisfied that the transferee is entitled to a CPT, the examiner shall issue a supplemental directive pursuant to section 17, subdivision 2, which shall further direct the registrar to cancel the outstanding CPT and issue a new CPT to the transferee.

Sec. 21. [508A.29] APPEALS.

An appeal may be taken to the supreme court from any order of the district court relating to land registered under sections 1 to 76 within 90 days after the entry of the order. The appeal shall be taken upon the notice, terms, and conditions as are provided by law for the taking of appeals in civil actions.

Sec. 22. [508A.30] REGISTRAR OF TITLES.

County recorders are the registrars of titles in their respective counties.

Sec. 23. [508A.31] REGISTRAR'S BOND.

Before entering upon the duties of his office, the registrar of titles shall execute a bond to the state for an amount and with sureties as may be determined by the county board. The bond shall be approved by the district court, filed in the office of the county recorder, and conditioned for the faithful discharge of his duties. A copy of the bond shall be filed and entered upon the records of the court.

Sec. 24. [508A.32] UNDER CONTROL OF COURT; AFFIXING SEAL.

The registrar of titles shall be at all times under the control of the district court, which may adopt rules governing the conduct of his office as it may deem wise. Every registrar of titles shall have an official seal and affix it to all documents requiring his official signature. Provided, however, that instead of affixing his official seal to CPTs he may use a printed facsimile of it at all points in the CPT where his official seal is required.

Sec. 25. [508A.33] DEPUTIES.

The registrar of titles may, in his discretion, appoint one or more deputy registrars of titles, who may also be deputy county recorders, to act in his stead.

Deputy registrars shall act in the name of the registrar and their acts shall be his acts. The registrar shall be liable for any neglect or omission of a deputy to the same extent as for his own neglect or omission. The registrar may, with the consent of the county board, employ clerks as may be required to properly perform the duties of his office. In all counties in which the county recorder does not receive the fees of the office in lieu of a salary, the county board shall fix the compensation of all deputy registrars and clerks appointed or employed by the registrar which shall be paid out of any county funds not otherwise appropriated.

Sec. 26. [508A.34] CPTS; ENTERING AND BINDING.

The registrar shall enter all first and subsequent CPTs by binding or entering them in the order of their numbers in a book to be known as the "Register of Titles; CPT." The entering and binding shall be done in the same manner, with the same procedures, and to the same effect as for certificates of title under section 508.34.

Sec. 27. [508A.35] FORMS OF CPT.

The CPT shall contain the name and residence of the owner, a description of the land and of the estate of the owner, and shall by memorial contain a description of all encumbrances, liens, and interests known to the owner to which the estate of the owner is subject. It shall state his age and if under disability, the nature of it. It shall also state whether or not the owner is married and if married, the name of the husband or wife. In case the land is held in trust or subject to any condition or limitation, it shall state the nature and character of it. It shall be in substantially the following form:

CERTIFICATE OF POSSESSORY TITLE (CPT)

First Certificate of Possessory Title, pursuant to the Directive of the Examiner of Titles, County of, and State of Minnesota, date, 19... and State of Minnesota, date, 19...

Registration of Possessory Title

State of Minnesota)
) ss
County of)

This is to certify that of the of County of, and State of, is now the owner of a fee simple estate, to-wit, Subject to the encumbrances, liens, and interests noted by the memorial underwritten or endorsed hereon; and subject to the following rights or encumbrances subsisting, namely:

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(1) Liens, claims, or rights arising under the laws of the Constitution of the United States, which the statutes of this state cannot require to appear of record;

(2) Any tax or special assessment for which a sale of the land has not been had at the date of the CPT;

(3) Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;

(4) All rights in public highways upon the land;

(5) The rights, titles, estates, liens, and interests of any person who has acquired an interest set forth in the Examiner's Supplemental Directive issued pursuant to section 17, subdivision 2.

(6) The rights of any person in possession under deed or contract for deed from the owner of the CPT; and

(7) Any claims that may be made pursuant to section 15 within five years from the date the Examiner's Supplemental Directive is filed on the CPT.

In witness whereof, I have hereunto subscribed my name and affixed the seal of my office, this day of, 19...

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

All CPTs issued subsequent to the first shall be in like form except that they shall be entitled "Transfer from number (here give the number of the next previous CPT relating to the same land)," and shall also contain the words "Originally registered (date, volume, and page of registration)."

CPTs shall be indexed and maintained in the same manner as provided for certificates of title under chapter 508.

Sec. 28. [508A.351] REQUIRED MEMORIAL ON CPT.

Subdivision 1. MEMORIALS. In addition to memorials of all rights, titles, estates, liens, and interests set forth in the examiner's directives issued pursuant to section 17, each CPT shall contain a memorial which shall contain substantially the following language: "The above described land is subject to the rights of persons in possession, if any, and any rights which would be disclosed by a survey, except as such rights are limited by section 2, subdivision 1."

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 64.

Sec. 29. [508A.36] CERTIFICATES AND COPIES AS EVIDENCE.

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The first CPT and all subsequent ones shall have the same evidentiary force as provided for certificates of title in section 508.36.

Sec. 30. [508A.37] TRACT INDEXES; RECEPTION BOOKS; FORMS OF RECORDS.

The registrar shall keep tract indexes, reception books, and forms of records for CPTs, and shall perform the duties relating to it in the same manner that is required of the registrar under section 508.37, and section 31.

Sec. 31. [508A.38] FORMS OF RECORDS ADOPTED.

Every instrument affecting the title to land, filed with the registrar pursuant to sections 1 to 76, shall be numbered by him, and he shall endorse upon it the number of it, together with the date, hour, and minute when the same is filed, and a reference to its proper CPT. Every instrument shall be retained by him and regarded as registered from the time of filing except that the instruments may be copied or reproduced as provided by section 15.17, and the copies or reproductions of them substituted for the originals with the equal force and effect as they have. The originals may be then destroyed as provided by section 15.17. When the memorial of any instrument is made upon any CPT, the date, number, and time of filing of it shall also be endorsed upon the CPT. All records and papers relating to registered land in the office of the registrar shall be open to the inspection of the public at the times and under the conditions as the court may prescribe. Duplicates of all instruments, voluntary or involuntary, filed and registered with the registrar, may be presented with the originals, and shall thereupon be attested and sealed by him, and endorsed with the file number, and other memoranda on the originals, and returned to the person presenting it. The registrar shall furnish certified copies of the instruments filed and registered in his office, upon payment of a fee as provided in section 357.18. The court shall adopt general forms of memorials and notations to be used by the registrars in registering the common forms of conveyance and other instruments.

Sec. 32. [508A.39] NOTICES AFTER REGISTRATION; SERVICE.

All notices required by sections 1 to 76, after the original registration, either by the registrar or by the court, shall be served on the persons to be notified in the following manner: The notice shall be served upon a resident of the state in the manner now provided by law for the service of a summons in a civil action, and the same proof of service shall be made. It shall be served upon a person who is not a resident of the state by sending the same by mail to the person at his post office address, as stated in the CPT or in any registered instrument on file with the registrar. The certificate of the registrar or clerk that any notice has been mailed as required shall be conclusive proof of the service of the notice, but the court may, in any case, order different or other service of it by publication or otherwise.

Sec. 33. [508A.40] OWNER'S DUPLICATE RECEIPT.

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At the time the first CPT is entered, the registrar shall make a duplicate of it, endorsing across the face of the duplicate the words "Owner's Duplicate CPT" and deliver it to the owner or his authorized attorney. The registrar shall, in every case, when it is practicable so to do, take from the owner a receipt for the duplicate CPT, which shall be signed by the owner in person. In the case of multiple owners the receipt may be executed by any one of the owners. The receipt, when signed and delivered in the office of the registrar, shall be witnessed by him or his deputy. If the receipt is signed elsewhere, it shall be acknowledged in the same manner as a deed. The receipt shall be prima facie evidence of the genuineness of the signature.

Sec. 34. [508A.41] DUPLICATE, IF SEVERAL OWNERS.

Where two or more persons are owners of land registered pursuant to sections 1 to 76, either as tenants in common or otherwise, one owner's duplicate CPT may be issued for the entire interest in the land or separate duplicate CPTs may be issued to each owner for his undivided interest in it.

Sec. 35. [508A.42] SURRENDER OF DUPLICATE; NEW DUPLICATE.

The owner of land registered pursuant to sections 1 to 76 holding one duplicate CPT for two or more distinct parcels of land may surrender them. The registrar may then issue to him one or more duplicate CPTs for them. An owner of land registered pursuant to sections 1 to 76 holding separate duplicate CPTs for several parcels of land may surrender them. The registrar may then issue to the owner a single duplicate CPT for all of the parcels, or may issue two or more CPTs including in each CPT as many parcels as the owner desires.

Sec. 36. [508A.43] EFFECTIVE DATE OF CPT.

When entered in the register, the first CPT shall relate back to and take effect as of the date the examiner's of titles directive is filed with the registrar of titles pursuant to section 17, subdivision 1.

Sec. 37. [508A.44] LOSS OF DUPLICATE CPTS.

Subdivision 1. COURT PROCEEDING. If any duplicate CPT is lost or destroyed or cannot be produced, a duly verified statement, setting forth the facts relating to it, may be filed with the registrar by the registered owner, or other person in interest. Upon application, after due notice and hearing, the court may direct the registrar to issue a new duplicate CPT containing a memorandum of the fact that it is issued in place of a lost duplicate CPT, which shall be entitled to like faith and credit as the original duplicate.

Subd. 2. ALTERNATE PROCEEDING. In lieu of the court directive to the registrar to issue a new duplicate CPT under subdivision 1, the registrar of titles shall issue a duplicate CPT when directed to do so by the examiner of titles. The directive of the examiner shall be in writing after posting a notice addressed

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"TO WHOM IT MAY CONCERN" fixing a time when he shall direct the issuance of a new duplicate CPT unless valid objections to it are delivered to his office prior to the specified time. The notice shall be posted on a bulletin board provided for the posting of legal notices at the courthouse at least seven days prior to the date fixed for the issuance of the directive. No directive shall be issued by the examiner unless all persons in interest have signed and verified a statement setting forth the facts relating to the reasons why the duplicate CPT cannot be produced, the statement is memorialized upon the CPT and there is satisfactory evidence as to the identity of the signers and the facts relating to the loss or destruction of the duplicate CPT. Persons in interest in the case of an owner's duplicate CPT are the registered owners or their probate representatives; and in the case of the mortgagee's or lessee's duplicate CPT, the persons in interest are the registered owners of the mortgage or lease, as the case may be, or their probate representative.

Sec. 38. [508A.45] COURT MAY ORDER DUPLICATE CPT PRODUCED.

If the registrar of titles is requested to enter a new CPT in pursuance of an instrument which purports to be executed by the registered owner, or by reason of any instrument or proceeding which divests the title of the registered owner against his consent, and the outstanding owner's duplicate CPT is not presented for cancellation when the request is made, the registrar of titles shall not enter a new CPT until authorized so to do by order of the district court. The person who claims to be entitled to it may apply for it to the district court, and after due notice and hearing, the court may order the registered owner, or any person withholding the duplicate CPT, to surrender it, and direct the entry of a new CPT upon the surrender. If the person withholding the duplicate CPT is not amenable to the process of the court, or if for any reason the outstanding owner's duplicate CPT cannot be delivered up, the court may by decree annul it, and order a new CPT to be entered. If an outstanding mortgagee's or lessee's duplicate CPT is not produced and surrendered when the mortgage or lease is discharged, assigned, or extinguished, the same proceedings may be had to obtain registration as in the case of the non-production of an owner's duplicate.

Sec. 39. [508A.46] PLATS OF REGISTERED LAND.

The owner of land registered under sections 1 to 76 may plat it and subdivide it into lots and blocks in like manner as in case of unregistered land. All laws with reference to the subdivision and platting of unregistered land shall apply with like force and effect to registered land excepting only that the surveyor's plat of it shall be filed with the registrar.

Sec. 40. [508A.47] REGISTERED LANDS; TRANSFER, SURVEYS.

Subdivision 1. CONVEYANCES. An owner of land registered under sections 1 to 76 may convey, mortgage, lease, charge, or otherwise deal with the

same as fully as if it had not been registered. He may use any form of deed, mortgage, lease, or other voluntary instrument sufficient in law for the purpose intended. No voluntary instrument of conveyance purporting to convey or affect the registered land, except a will, and a lease for a term not exceeding three years, shall take effect as a conveyance, or bind or affect the land, but shall operate only as a contract between the parties, and as authority to the registrar to make registration. The act of registration shall be the operative act to convey or affect the land.

Subd. 2. REGISTERED LAND SURVEY, COURT ORDER. The district court for any county, may, by general rule or order of the court, require that the owner of a parcel of unplatted registered land, who conveys any part of it which is not a full government subdivision, or simple fractional or quantity part of a full government subdivision, shall first file with the registrar of titles, when so required by him, a drawing in triplicate of said parcel of unplatted land, showing the tract or tracts being or to be conveyed. The drawing shall be known as a "registered land survey." The general rule or order shall be made only after hearing, to be held only after a notice of the hearing has been posted in the office of the clerk of district court of the county for which the rule or order is to be made for three weeks prior to the date of the hearing, and only after a notice of the hearing has been published once a week for three weeks in a legal newspaper of general circulation in the county.

Subd. 3. DEFINITIONS. (a) A full government subdivision is defined as a government lot, a quarter-quarter section, a quarter-quarter-quarter section ad infinitum;

(b) A simple fractional part of a full government subdivision is defined as: one-half; two-thirds; one-fourth, and similar fractions;

(c) A simple quantity part of a full government subdivision is defined as: twenty acres; two hundred feet, ten chains, and similar quantities.

Subd. 4. SURVEY; REQUISITES; FILING; COPIES. The registered land survey shall correctly show the legal description of the parcel of unplatted land represented by the registered land survey and the outside measurements of the parcel of unplatted land and of all tracts delineated therein, the direction of all lines of the tracts to be shown by angles or bearings or other relationship to the outside lines of the registered land survey, and the surveyor shall place stakes in the ground at appropriate corners, and all tracts shall be lettered consecutively beginning with the letter "A." None of the tracts or parts of them may be dedicated to the public by the registered land survey. Except in counties having microfilming capabilities, a reproduction copy of the registered land survey shall be delivered to the county auditor. The registered land survey shall be on paper, mounted on cloth, shall be a black on white drawing, the scale to be not smaller than one inch equals 200 feet, and shall be certified to be a correct representation of the parcel of unplatted land by a registered surveyor.

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The mounted drawing shall be exactly 17 inches by 14 inches and not less than 2-1/2 inches of the 14 inches shall be blank for binding purposes. The survey shall be filed in triplicate with the registrar of titles upon the payment of a fee of \$15. Before filing, however, any survey shall be approved in the manner required for the approval of subdivision plats, which approval shall be endorsed on it or attached to it.

In counties having microfilming capabilities, the survey may be prepared on sheets of suitable mylar or on linen tracing cloth by photographic process or on material of equal quality. Notwithstanding any provisions of subdivision 5 to the contrary, no other copies of the survey need be filed.

The registrar shall furnish to any person a copy of the registered land survey, duly certified by him, for a fee of \$7.50. The copy shall be admissible in evidence.

Subd. 5. FILING REGISTERED LAND SURVEY. The registered land survey shall be filed in the office of the registrar of titles, who shall number each registered land survey, the numbers to run consecutively beginning with the number "1." One copy of each registered land survey shall be retained by the registrar of titles as a master copy, one copy filed in a registered land survey register in his office and made available to the public, and one copy delivered to the county auditor which he may thereafter refer to in connection with the tax descriptions when he finds it convenient. Thereafter the tracts in each registered land survey shall be known as Tract, registered land survey No., files of registrar of titles, county of, and all conveyances shall describe said property accordingly; but the registrar shall not accept for filing and registration any conveyance of unplatted registered land if the land is described in the conveyance according to a registered land survey which has not been approved as provided in subdivision 4 unless the approval of the body authorized to approve subdivision plats is endorsed on it or attached to it.

Subd. 6. NOT TO CHANGE TAX CLASSIFICATION. Nothing in this section shall operate to change the tax classification of the lands in the registered land survey or otherwise in any way affect the land. The purpose of this section is to simplify the description and designation of the registered land in connection with the transfer of it for taxation. Land conveyed by reference to a registered land survey shall be deemed to be conveyed by metes and bounds.

Subd. 7. APPLIES TO TRANSFERS OF PARTS OF LOTS. The provisions of this section shall also be applied to the transfer of parts of lots, outlots and unlotted blocks, when the language necessary to describe the parts in other than by simple fractional or quantity parts thereof.

Sec. 41. [508A.48] INSTRUMENTS AFFECTING TITLE FILED WITH REGISTRAR; NOTICE.

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Every conveyance, lien, attachment, order, decree, or judgment, or other instrument or proceeding, which would affect the title to unregistered land under existing laws, if recorded, or filed with the county recorder, shall, in like manner, affect the title to land registered under sections 1 to 76 if filed and registered with the registrar in the county where the real estate is situated, and shall be notice to all persons from the time of the registering or filing.

Sec. 42. [508A.49] INTEREST LESS THAN FEE; NOTICED BY MEMORIAL.

No new CPT shall be issued upon any transfer of land registered under sections 1 to 76 which does not divest the title in fee simple of the land, or some part of it. All interests in the registered land, less than an estate in fee simple, shall be registered by filing with the registrar the instrument which creates, transfers, or claims the interest, and by brief memorandum or memorial of it made and signed by the registrar upon the CPT. A similar memorandum shall also be made on the owner's duplicate. The cancelation of interests shall be registered in the same manner.

Sec. 43. [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. Any change in the post office address of the person shall be endorsed by the registrar upon the original instrument upon receiving a duly verified statement of the change. All names and addresses shall also be entered upon the CPT.

Sec. 44. [508A.51] OWNER'S DUPLICATE PRESENTED; EXCEPTION.

No new CPT shall be entered or issued, and no memorial shall be made upon any CPT in pursuance of any deed or other voluntary instrument, unless the owner's duplicate is presented with it, except in cases provided for in sections 1 to 76, or upon the order of the court. When an order or directive is made, a memorial of it shall be entered, or a new CPT issued as directed. When any voluntary instrument is presented for registration, the production of the owner's duplicate CPT shall authorize the registrar to enter a new CPT or to make a memorial of registration in accordance with the instrument, and the new CPT or memorial shall be binding upon the registered owner and upon all persons claiming under him in favor of every purchaser for value and in good faith. In all cases of registration which are procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to the fraud, without prejudice to the rights of any innocent holder for value of a CPT.

Sec. 45. [508A.52] CONVEYANCE; CANCELATION OF OLD AND ISSUANCE OF NEW CPT.

An owner of land registered under sections 1 to 76 who desires to convey the land, or a portion of it, in fee, shall execute a deed of conveyance, and file the deed, together with his owner's duplicate CPT, with the registrar. The registrar shall require an affidavit by the grantee, or some person in his behalf, which affidavit shall set forth the name, age, and residence of the grantee, and whether the grantee is or is not under legal disability, whether or not married, and if married, the name of the husband or wife. The deed of conveyance shall be filed and endorsed with the number and place of registration of the owner's CPT. Before canceling the outstanding CPT, the registrar shall show by memorial on it the registration of the deed on the basis of which it is canceled. The encumbrances, claims, or interests adverse to the title of the registered owner shall be stated upon the new CPT, except so far as they may be simultaneously released or discharged. The owner's duplicate CPT and the original CPT shall be marked "Canceled" by the registrar, who shall enter in the register a new CPT to the grantee, and prepare and deliver to the grantee a new owner's duplicate CPT. If a deed in fee is for a portion of the land described in a CPT, the memorial of the deed entered by the registrar shall include the legal description contained in the deed and the registrar shall enter a new CPT to the grantee for the portion of the land conveyed and, except as otherwise provided in this section, issue a residue CPT to the grantor for the portion of the land not conveyed. The registrar shall prepare and deliver to each of the parties a new owner's duplicate CPT for their respective CPTs. In lieu of canceling the grantor's CPT and issuing a residue CPT and owner's duplicate CPT to him for the portion of the land not conveyed, the registrar may, in his discretion if the grantor's deed does not divide a parcel of unplatted land, and in the absence of a request to the contrary by the registered owner, mark by the land description on both the owner's duplicate CPT and the original CPT "Part of land conveyed, see memorials." The fee for a residue CPT shall be paid to the registrar only when the grantor's CPT is canceled after the conveyance by the grantor of a portion of the land described in his CPT. When two or more successive conveyances of the same property are filed for registration on the same day the registrar may, in his discretion, enter a CPT in favor of the grantee or grantees in the last of the successive conveyances, and the memorial of the previous deed or deeds entered on the prior CPT shall have the same force and effect as though the prior CPT had been entered in favor of the grantee or grantees in the earlier deed or deeds in the successive conveyances. The fees for the registration of the earlier deed or deeds shall be the same as the fees prescribed for the entry of memorials. The registrar of titles in his discretion, with the consent of the transferee, may mark "See memorials for new owner(s)" by the names of the registered owners on both the original CPT and the owner's duplicate CPT and also add to the memorial of the transferring conveyance a statement that the memorial shall serve in lieu of a new CPT in favor of the grantee or grantees noted in it and may refrain from canceling the CPT until the time it is canceled by a subsequent transfer, and the memorial showing the transfer of title shall have the same effect as the entry of a new CPT for the land described in the CPT. The fee for the registration of a conveyance

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without cancelation of the CPT shall be the same as the fee prescribed for the entry of a memorial.

Sec. 46. [508A.53] TRANSFER AND PAYMENT OF TAXES.

All laws requiring deeds, plats, or other instruments affecting unregistered land to bear the endorsement of the proper city or county officials showing that all taxes or assessments upon the same have been paid, shall be operative as to land registered under sections 1 to 76, and all laws shall be complied with before any deed, plat, or other instrument affecting the registered land shall be filed with the registrar.

Sec. 47. [508A.54] MORTGAGE.

The owner of land registered under sections 1 to 76 may mortgage it by deed or other instrument sufficient in law for that purpose and the mortgage or other instrument may be assigned, extended, discharged, or released, either in whole or in part, or otherwise dealt with by the mortgagee by any form of deed or instrument sufficient in law for the purpose. The deed, mortgage, or other instrument, and all instruments assigning, extending, discharging, releasing, or otherwise dealing with the same, shall be registered and take effect upon the title only from the time of registration.

Sec. 48. [508A.55] REGISTRATION OF MORTGAGE; MEMORIAL ENTERED ON CERTIFICATE.

The registration of a mortgage shall be made in the following manner: The owner's duplicate CPT shall be presented to the registrar, together with the mortgage deed, or other instrument to be registered, and the registrar shall enter upon the original CPT and also upon the owner's duplicate CPT a memorial of the purport of the instrument registered, the exact time of filing, and its file number. He shall also note upon the registered instrument the time of filing and a reference to the volume and page where it is registered. The registrar shall also, at the request of the mortgagee, make and deliver to him a duplicate CPT like the owner's duplicate CPT, except that the words "Mortgagee's Duplicate" shall be written or printed diagonally across its face in large letters. A memorandum of the issuance of the mortgagee's duplicate shall be made upon the original CPT.

Sec. 49. [508A.56] ASSIGNMENT AND DISCHARGE OF MORTGAGE.

When a mortgage, upon which a mortgagee's duplicate has been issued, is assigned, extended, or otherwise dealt with, the mortgagee's duplicate shall be presented to the registrar, together with the instrument dealing with the mortgage, and a memorial of the instrument, shall be made upon the mortgagee's duplicate and upon the original CPT. When the mortgage is discharged or otherwise extinguished the mortgagee's duplicate shall be surrendered and

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stamped "Canceled." In case only a part of the mortgage upon the land is intended to be released or discharged, a memorial of the partial release shall be entered. The production of the mortgagee's duplicate CPT shall be conclusive authority to register the instrument presented with it.

Sec. 50. [508A.57] FORECLOSURE; NOTICE.

Mortgages upon land registered under sections 1 to 76 may be foreclosed in the same manner as mortgages upon unregistered land. Where the mortgage is upon registered land it shall be sufficient to authorize the foreclosure of it by advertisement, if the mortgage and all assignments of it have been registered, and a memorial of it duly entered upon the CPT. When a mortgage upon the registered land is foreclosed by advertisement, the notice of foreclosure shall state the date of the mortgage, when and where registered, and the fact of registration. All laws relating to the foreclosure of mortgages upon unregistered land shall apply to mortgages upon land registered under sections 1 to 76, or any estate or interest therein, except as herein provided, and except that a notice of the pendency of any suit or proceeding to enforce or foreclose the mortgage or other charge upon the land shall be filed with the registrar, and a memorial of it entered on the register at the time of or prior to the commencement of the action or proceeding. A notice so filed and registered shall be notice to the registrar and to all persons thereafter dealing with the land or any part of it. When a mortgagee's duplicate CPT has been issued it shall be presented to the registrar at the time of filing and a memorial of it entered. In all foreclosures, all certificates and affidavits permitted or required by law to be recorded with the county recorder shall be filed with the registrar and registered by him.

Sec. 51. [508A.58] REGISTRATION AFTER FORECLOSURE; NEW CPT.

Any person who has, by an action or other proceeding to enforce or foreclose a mortgage, lien, or other charge upon land registered under sections 1 to 76, become the owner in fee of the land, or any part of it, may have his title registered. He shall apply by duly verified petition to the court for a new CPT to the land, and the court shall then, after due notice to all parties in interest and upon the hearing as the court may direct, make an order or decree for the issuance of a new CPT to the person entitled thereto, and the registrar shall then enter a new CPT to the land, or of the part of it to which the applicant is entitled, and issue an owner's duplicate as in the case of a voluntary conveyance.

Sec. 52. [508A.59] REGISTRATION OF JUDGMENT OR FINAL DECREE.

A judgment or decree affecting land registered under sections 1 to 76 shall be registered upon the presentation of a certified copy of it to the registrar, who shall enter a memorial of it upon the original CPT, and upon the owner's duplicate, and upon any outstanding mortgagee's or lessee's duplicate, if practica-

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ble so to do. When the registered owner of the land is by the judgment or decree divested of his estate in fee in it, or of any part of it, the prevailing party shall be entitled to a new CPT for the land, or so much of it as is described in the judgment and decree. The registrar shall enter the new CPT and issue a new owner's duplicate CPT as in the case of a voluntary conveyance. No new CPT shall be entered except upon the written certification of the examiner of titles as to the legal sufficiency of the documents presented for filing for the purpose of issuance of a new CPT or upon the order of the district court directing the issuance of it.

Sec. 53. [508A.60] LEASES.

Leases of land registered under sections 1 to 76 for a term of three years or more shall be registered in lieu of recording it. All the provisions of sections 1 to 76 relating to the registration of mortgages shall apply to the registration of leases so far as the same are applicable to it.

Sec. 54. [508A.61] TRUST AND OTHER DEEDS OF LIMITATION; NEW TRUSTEE; CORPORATE DISSOLUTION.

Subdivision 1. TRUST DEEDS. If a deed or other instrument is filed with the registrar for the purpose of transferring land registered under sections 1 to 76 in trust, or upon any equitable condition or limitation expressed in it, or for the purpose of creating or declaring a trust or other equitable interest in it without the transfer of it, the particulars of the trust, condition, limitation, or other equitable interest need not be entered upon the CPT, but a memorial of it may be entered by the words "in trust" or "upon condition," or other apt words, and by reference by number to the instrument authorizing or creating the same.

Subd. 2. NEW TRUSTEE. When a new trustee of land registered under sections 1 to 76 is appointed, a new CPT shall be entered in his name upon presentation to the registrar of a certified copy of the decree or other instrument appointing him and the surrender of the owner's duplicate CPT.

Subd. 3. VOLUNTARY DISSOLUTION. When a corporate owner adopts a resolution for voluntary dissolution, the registrar of titles shall enter a new CPT in the name of the trustee in dissolution upon the surrender of the owner's duplicate CPT and the presentation of a certified copy of the certificate setting forth the adoption of the resolution together with the certificate of the secretary of state that the certificate of dissolution has been filed for record in his office.

Subd. 4. FILINGS ON SAME DAY. When an instrument showing the appointment or dissolution and a trustee's deed are filed for registration on the same day, a new CPT may be entered in the name of the grantee or grantees and the memorial of the instrument shall have the same force and effect as though a CPT had been entered in favor of the trustee. However, the fees for registration shall be the same as would be the case if a CPT were entered in the name of the trustee.

Sec. 55. [508A.62] TRUSTEE'S CONVEYANCE.

No instrument, executed by a trustee of land registered under sections 1 to 76 and held in trust, which transfers, mortgages, leases, or in any manner affects the land, shall be registered except upon the written certification of the examiner of titles that the instrument is executed in accordance with a power conferred in the instrument of trust or is authorized by law, or upon the order of the district court directing the registration of it. The examiner shall not certify any instrument unless the trust is administered by the court or unless the document creating the trust, or a certified copy thereof, is registered as a memorial upon the CPT.

Sec. 56. [508A.63] REGISTRATION OF INSTRUMENTS CREATING LIENS; JUDGMENTS.

No judgment requiring the payment of money shall be a lien upon land registered under sections 1 to 76, except as herein provided. Any person claiming a lien shall file with the registrar a certified copy of the judgment, together with a written statement containing a description of each parcel of land in which the judgment debtor has a registered interest and upon which the lien is claimed, and a proper reference to the CPT or CPTs to the land. Upon filing the copy and statement, the registrar shall enter a memorial of the judgment upon each CPT designated in the statement, and the judgment shall then be and become a lien upon the judgment debtor's interest in the land described in CPT or CPTs. At any time after filing the certified copy of the judgment, any person claiming the lien may, by filing a written statement, as herein provided, cause a memorial of the judgment to be entered upon any CPT to land in which the judgment debtor has a registered interest and not described in any previous statement and the judgment shall then be and become a lien upon the judgment debtor's interest in the land. The judgment shall survive and the lien thereof shall continue for a period of ten years from the date of the judgment and no longer. In every case where an instrument of any description, or a copy of any writ, order, or decree, is required by law to be filed or recorded in order to create or preserve any lien, writ, or attachment upon unregistered land, the instrument or copy, if intended to affect registered land, shall, in lieu of recording, be filed and registered with the registrar. In addition to any facts required by law to be stated in the instruments to entitle them to be filed or recorded, they shall also contain a reference to the number of the CPT of the land to be affected. If the attachment, charge, or lien is not claimed on all the land described in any CPT, the instrument shall contain a description sufficient to identify the land.

Sec. 57. [508A.64] ATTACHMENTS; LIENS.

Attachments and liens of every description upon land registered under sections 1 to 76 shall be continued, reduced, discharged, and dissolved by any method sufficient therefor in the case of unregistered land. All certificates, writings, or other instruments permitted or required by law to be filed or

recorded to give effect to the enforcement, continuance, reduction, discharge, or dissolution of attachments or other liens upon unregistered land or to give notice of it, shall, in the case of like liens upon land registered under sections 1 to 76 be filed with the registrar.

Sec. 58. [508A.65] PLAINTIFF'S ATTORNEY; NAME AND ADDRESS ENDORSED; NOTICE.

The name and address of the plaintiff's attorney shall in all cases be endorsed upon the instrument which is registered and he shall be deemed to be the attorney of the plaintiff until a written notice that he has ceased to be the attorney shall have been filed for registration by the plaintiff.

Sec. 59. [508A.66] RELEASE OF COURT PROCEEDINGS; CLERK'S CERTIFICATE.

A certificate of the clerk of the court in which any action or proceeding shall have been pending or in which any judgment or decree is of record, that the action has been dismissed or otherwise disposed of, or that the judgment, decree, or order has been assigned, satisfied, released, or reversed, or the certificate of any sheriff, or other officer, that the levy of any execution, attachment, or other process has been released, discharged or otherwise disposed of, being duly filed and noted upon the register, shall be sufficient to authorize the registrar to cancel, or otherwise treat the memorial of it according to the purport of the certificate.

Sec. 60. [508A.67] ACQUIRING TITLE BY ACTION; NEW CPT.

Upon the expiration of the time allowed by law for redemption of land registered under sections 1 to 76, after it has been set off, or sold on execution, or taken or sold for the enforcement of any lien, or charge of any nature, the person who claims under the execution, or under any certificate, deed, or other instrument made in the course of proceedings to enforce the execution or lien, may apply to the court for an order directing the entry of a new CPT to him, and upon the notice the court may require, the petition shall be heard and a proper order or decree rendered therein.

Sec. 61. [508A.68] DEATH OF OWNER; ISSUANCE OF NEW CPTS.

When the owner of land registered under sections 1 to 76, or of any estate or interest in it, dies, having devised the same by will, the persons entitled to it may file with the registrar a certified copy of the will and the personal representative's deed of distribution together with any order of distribution, if there is one, or certified copy of any final decree, if there is one, assigning it, and the duplicate CPT issued to the testator. The registrar shall then cancel the duplicate CPT issued to the testator and issue a new duplicate CPT to the persons designated. When the owner of land registered under sections 1 to 76, or

of any estate or interest therein, dies, not having devised it, the persons entitled to it by law may file with the registrar the personal representative's deed of distribution together with a certified copy of any order of distribution, if there be one, or a certified copy of any final decree of the court assigning it, together with the duplicate CPT issued to the intestate. The registrar shall then cancel the duplicate CPT issued to the intestate and issue a new duplicate CPT to the persons entitled to it. Unless restricted by letters of testamentary or letters of administration, a personal representative may sell, convey, or mortgage land registered under sections 1 to 76 in the same manner as if the land were registered in his name. The personal representative shall first file with the registrar a certified copy of any will of the decedent and a certified copy of his letters.

Sec. 62. [508A.69] JURISDICTION OF COURT NOT IMPAIRED.

A personal representative may sell, mortgage or lease any real property of the estate as authorized by section 524.3-715. Nothing contained in sections 1 to 76 shall impair or affect the jurisdiction of the court to license any personal representative, conservator or guardian to sell or mortgage land registered under sections 1 to 76. A purchaser or mortgagee receiving a deed or mortgage executed by a personal representative, conservator or guardian shall be entitled to register his title and to the entry of a new CPT or memorial of registration in the same manner as upon any similar voluntary transfer of registered land. No CPT shall be issued pursuant to the provisions of this section or of section 61 except upon the written certification of the examiner of titles as to the legal sufficiency of the documents presented for filing for the purpose of issuance of a new CPT or upon the order of the district court directing its issuance.

Sec. 63. [508A.70] SUBSEQUENT ADVERSE CLAIM, HOW REGISTERED; COSTS.

Any person claiming any right, title, or interest in land registered under sections 1 to 76 adverse to the registered owner of it arising subsequent to the date of the CPT, may, if no other provision is made in sections 1 to 76 for registering the same, file with the registrar his verified statement in writing setting forth fully his alleged right or interest, and how or from whom it was acquired, and a reference to the volume and page of the CPT of the registered owner, together with a description of the land, the adverse claimant's residence, and designating a place at which all notices may be served upon him. The statement shall be entitled to registration as an adverse claim, and the court, upon the petition of any party in interest, shall grant a speedy hearing upon the validity of the adverse claim and enter a decision and decree therein as justice and equity may require. If the adverse claim is adjudged to be invalid, the registration of it shall be canceled. The court may, in any case, award costs and damages, including a reasonable attorney's fee, as it may deem just.

Sec. 64. [508A.71] ALTERATIONS ON REGISTER; ORDER OF COURT; DIRECTIVE OF EXAMINER; NEW CERTIFICATES.

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Subdivision 1. ERASURES; ALTERATIONS. No erasure, alteration, or amendment shall be made upon the register of titles after the entry of a CPT or of any memorial on it, and the attestation of the same by the registrar, except by order of the court or upon written directive of the examiner of titles.

Subd. 2. COURT ORDERS. A registered owner or other person in interest may, at any time, apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant, or inchoate, have terminated and ceased; or that new interests have arisen or been created which do not appear upon the CPT; or that any error or omission was made in entering a CPT or any memorial on it, or on any duplicate CPT; or that the name of any person on the CPT has been changed; or that the registered owner has married, or if registered as married, that the marriage has been terminated; or that a corporation which owned land registered under sections 1 to 76 and has been dissolved has not conveyed it within three years after its dissolution; or upon any other reasonable ground; and the court may hear and determine the petition after notice to all parties in interest, and may order the entry of a new CPT, the entry or cancellation of a memorial upon a CPT, or grant any other relief upon terms, requiring security if necessary, as it may consider proper.

Subd. 3. CANCELATION OF MEMORIAL. At the request of a registered owner or other person in interest the examiner of titles by a written directive may order the amendment or cancellation of a memorial relating to racial restrictions, rights which are barred by a statute or rights which have expired by the terms of the instrument creating the rights. The registrar of titles shall register the directives of the examiner of titles upon the CPTs, and he shall give full faith to the directives.

Subd. 4. POWERS OF REGISTRAR. Without order of court or directive of the examiner the registrar of titles may receive and register as memorials upon any CPT to which they pertain, the following instruments; receipt or certificate of county treasurer showing redemption from any tax sale or payment of any tax described in a CPT, a marriage certificate showing the subsequent marriage of any owner shown by a CPT to be unmarried, a certified copy of the death certificate of party listed in any CPT as being the spouse of the registered owner when accompanied by an affidavit satisfactory to the registrar identifying the decedent with the spouse. In all subsequent dealings with the land covered by CPTs the registrar shall give full faith to these memorials.

Subd. 5. JOINT TENANTS, SURVIVAL. In case of a CPT outstanding to two or more owners as joint tenants, upon the filing for registration of a certificate of death of one of the joint tenants and an affidavit of survivorship, and for deaths occurring prior to January 1, 1980, an affidavit of survivorship duly certified by the commissioner of revenue, or an affidavit of survivorship for exempt homestead property in compliance with the provisions of Minnesota

Statutes 1978, Section 291.14, Subdivision 2, Clause (4), and upon the surrender of the owner's duplicate CPT, the registrar without an order or directive shall issue a new CPT for the premises to the survivor in severalty or to the survivors in joint tenancy as the case may be.

Subd. 6. CERTIFIED COPIES OF INSTRUMENTS, FILING. When instruments affecting land registered under sections 1 to 76 have been recorded in the office of any county recorder in this state, a certified copy of it may be filed for registration and registered with like effect as the original instrument without an order or directive. The owner's, mortgagee's, or lessee's duplicate CPT shall be presented to the registrar, together with the certified copy, whenever the presentation is required by statute for registration of the original instrument.

Sec. 65. [508A.72] AGENCY; POWER TO BE REGISTERED.

Any act which may legally be done or performed by any person under sections 1 to 76 may be done and performed by his agent when duly authorized in writing. The instrument or power of attorney shall be executed and acknowledged as required by law in the case of a deed, filed with the registrar, and registered by him. Any instrument revoking the power of attorney shall be executed, acknowledged, and registered in like manner.

Sec. 66. [508A.73] EMINENT DOMAIN; REVERSION.

If the land of a registered owner, or any right, title, interest, or estate in it is taken by eminent domain, the state or body politic, or other authority which exercises the right, shall file for registration a written instrument containing a description of the land taken, together with the name of each owner of it, and referring to each CPT by its number and place of registration in the register of titles, and stating what estate or interest in the land is taken, and for what purpose. A memorial of the right, title, interest, or estate thus taken shall be made upon each CPT by the registrar. If the fee is taken, a new CPT shall be entered in the name of the owner for the land remaining to him after the taking. If the owner has a lien upon the land thus taken for his damages, this fact shall be stated in the memorial of registration. All fees on account of any memorial of registration or entry of new CPTs for land thus taken shall be paid by the state or body politic or other authority which takes the land. If land which was taken for public use reverts, by operation of law, to the owner or to his heirs or assigns, the district court, upon the application of the person entitled to the benefit of the reversion, and after due notice and hearing, may order the entry of a new CPT to the person entitled to it.

Sec. 67. [508A.76] DAMAGES THROUGH ERRONEOUS REGISTRATION; ACTION.

Any person who, without negligence on his part, sustains any loss or damage by reason of any omission, mistake or misfeasance of the registrar or his deputy, or of any examiner or of any clerk of court, or of his deputy, in the

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performance of their respective duties under sections 1 to 76, and any person who, without negligence on his part, is wrongfully deprived of any land or of any interest in it by the registration of it, or by reason of the registration of any other person, as the owner of the land, or by reason of any mistake, omission, or misdescription in any CPT, or in any entry or memorial, or by any cancelation, in the register of titles, and who, by the provisions of sections 1 to 76, is precluded from bringing an action for the recovery of the land, or of any interest in it, or from enforcing any claim or lien upon the same, may institute an action in the district court to recover compensation out of the assurance fund for the loss or damage.

Sec. 68. [508A.77] PARTIES DEFENDANT; JUDGMENT; EXECUTION.

If an action is brought to recover any loss or damage occasioned solely by the registration of the land, or solely by the registration of any other person as the owner thereof, or if the action be brought for the recovery of any loss or damage occasioned solely by the omission, mistake or misfeasance of the registrar or his deputy, or of any examiner or of any clerk of court, or his deputy, in the performance of their respective duties, the state treasurer, in his official capacity, shall be the sole defendant. If the action is brought to recover for any loss or damage occasioned either wholly, or in part, by the fraud or wrongful act of some person other than the officers herein named, or to recover for any loss or damage caused jointly by the fraud or wrongful act, and by the omission, mistake or misfeasance of the officers above named, or any of them, and of some other person, the state treasurer, in his official capacity, and the other person shall be joined as defendants in it. In any action where there are defendants other than the state treasurer, no execution shall issue against the treasurer until execution against all other defendants against whom judgment has been recovered has been returned unsatisfied, either in whole or in part. An officer returning the execution shall certify on it that the amount still due upon the execution cannot be collected from them. The court, being satisfied as to the truth of the return, shall then order the state treasurer to pay the amount due upon the execution out of the assurance fund. If the assurance fund is insufficient to pay the amount of any judgment in full, the unpaid balance on it shall bear interest at the legal rate and be paid out of the first moneys coming into the assurance fund. The attorney general or, at the request of either the attorney general or the board of county commissioners of the county in which the land or a major part of it lies, the county attorney of that county shall defend the state treasurer in all these actions.

Sec. 69. [508A.78] LIABILITY OF ASSURANCE FUND.

No person shall recover from the assurance fund any sum by reason of any loss, damage, or deprivation occasioned solely by a breach of trust on the part of any registered owner who is trustee, or by the improper exercise of any

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power of sale in a mortgage, nor shall any person recover from the assurance fund any greater sum than the fair market value of the real estate at the time of the last payment into that fund, on account thereof.

Sec. 70. [508A.79] LIMITATION OF ACTION.

Any action or proceeding pursuant to section 67 to recover damages out of the assurance fund shall be commenced within six years from the time when the right to commence the same accrued, and not afterwards. If at the time the right accrued or thereafter within the six year period, the person entitled to bring the action or proceeding is a minor, or insane, or imprisoned, or absent from the United States in its service or the service of the state, the person, or anyone claiming under him, may commence the action or proceeding within two years after the disability is removed.

Sec. 71. [508A.80] FRAUDULENT INSTRUMENT OR ENTRY; PENALTY.]

Whoever fraudulently procures, or assists in fraudulently procuring, or is privy to the fraudulent procurement of any CPT or other instrument or of any entry in the register of titles, CPT, or other book kept in the office of any registrar, or of any erasure or alteration in any entry in any of these books, or in any instrument authorized by sections 1 to 76, or knowingly defrauds, or is privy to defrauding, any person by means of a false or fraudulent instrument, certificate, statement, or affidavit affecting land registered under sections 1 to 76 is guilty of a felony punishable by a fine not exceeding \$5,000, or by imprisonment not exceeding five years, or by both.

Sec. 72. [508A.82] REGISTRAR'S FEES.

The fees to be paid to the registrar shall be as follows;

(1) In addition to other fees provided herein, for the entry of each memorial upon a CPT, fifty cents, which shall be paid to the state treasurer and credited to the real estate assurance account;

(2) For registering each original CPT, and issuing a duplicate of it, \$10;

(3) For registering each transfer, including the filing of all instruments connected with it, and the issuance and registration of the new CPT, \$10;

(4) For the entry of each memorial on the register, or the cancellation of it, including the filing of all instruments and papers connected with it and endorsements upon duplicate CPTs, \$5;

(5) For issuing each mortgagee's or lessee's duplicate, \$5;

(6) For issuing each residue CPT, \$10;

(7) For issuing separate CPTs and duplicates of them, in exchange for one CPT for two or more distinct parcels, for each exchange CPT, \$5;

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(8) For each CPT showing condition of the register, \$5;

(9) For any certified copy of any instrument or writing on file in his office, the same fees allowed by law to county recorders for like services;

(10) For filing two copies of any plat in the office of the registrar, \$15;

(11) For any other service under sections 1 to 76, the fee the court shall determine;

(12) For issuing a duplicate CPT pursuant to the directive of the examiner of titles in counties in which the compensation of the examiner is paid in the same manner as the compensation of other county employees, \$50, plus \$5 to memorialize;

(13) For issuing a duplicate CPT pursuant to the directive of the examiner of titles in counties in which the compensation of the examiner is not paid by the county or pursuant to an order of the court, \$5;

(14) For filing a condominium floor plan in accordance with chapters 515 and 515A, \$15;

(15) For a copy of a condominium floor plan filed pursuant to chapters 515 and 515A, the fee shall be \$1 for each page of the floor plan with a minimum fee of \$10.

Sec. 73. [508A.835] DISPOSAL OF CANCELED DUPLICATE CPTS AND RECEIPT CARDS.

The registrar of titles is authorized to destroy owner's duplicate CPTs marked "canceled," upon the entry of a new owner's duplicate CPT, mortgagee's duplicate CPTs marked "canceled" and the receipt cards for the "canceled" CPTs.

Sec. 74. [508A.836] DISPOSAL OF CERTAIN AFFIDAVITS.

The registrar of titles is authorized to destroy affidavits of grantees and purchasers or of the person acting on their behalf, which are more than five years old.

Sec. 75. [508A.84] INSTRUMENTS OF ENCUMBRANCE; DISPOSAL.

The registrar of titles is authorized to destroy instruments of encumbrance which have been satisfied of record or extinguished by operation of law for a period of five years, together with the assignments and satisfactions of them. When the discharge of an encumbrance is by virtue of a judicial or statutory sale, the instruments evidencing the encumbrance of the foreclosure of it, shall not be destroyed until six months after entry of an unappealed order for issuance of a new CPT to the purchaser at the sale or to his assignee. Nothing herein contained shall relieve the registrar from maintaining the books and index records required under sections 26 and 30.

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Sec. 76. [508A.85] CHANGEOVER FROM CPT TO CERTIFICATE OF TITLE.

Subdivision 1. OWNER'S ELECTION. The owner of an outstanding CPT, at his election, may apply to the district court at any time to commence a registration in accordance with the provisions of chapter 508.

Subd. 2. REGISTRAR TO ISSUE CERTIFICATE OF TITLE. Subsequent to the expiration of the five year period set forth in section 15, upon the filing of any instrument transferring title from the registered owner of the CPT to another, the registrar of titles shall issue a certificate of title and cancel the CPT.

Subd. 3. CHANGEOVER AT REQUEST OF OWNER. Subsequent to the expiration of the five year period set forth in section 15, any registered owner of a CPT may file with the registrar of titles a request for a changeover, and upon payment of the fee for an exchange as specified in section 72, clause (7), the registrar shall issue a certificate of title and cancel the CPT.

Subd. 4. CHANGEOVER, MEMORIALS ON CERTIFICATE OF TITLE. Any certificate of title issued pursuant to this section shall carry forward all memorials which still affect the land, except for the memorial of the examiner's supplemental directive issued pursuant to section 17, subdivision 2. It shall be made subject to all statutory exceptions and be issued in the same form as provided in section 508.35, except that, in lieu of reciting that the certificate of title was issued pursuant to the order of the district court, the certificate of title shall recite that it was issued pursuant to the provisions of this section and recite the date the first certificate of title was issued for the land involved. The memorial on the CPT pursuant to section 28 shall not be removed without an order of the district court.

Subd. 5. INTEGRATION. A certificate of title issued pursuant to subdivisions 2 and 3 shall be integrated by the registrar of titles with the certificates of title created by an adjudication pursuant to chapter 508, and shall be subject to all provisions of chapter 508.

Approved March 10, 1982

CHAPTER 397 — H.F.No. 1336

An act relating to retirement; highway patrol benefits and refunds; providing annual benefit increases to pre-1973 retirees and surviving spouses; appropriating funds; amending Minnesota Statutes 1980, Section 352B.11, Subdivision 1; and Minnesota Statutes 1981 Supplement, Sections 352B.02, Subdivision 1; 352B.08, Subdivision 2; and 352B.11, Subdivision 2; proposing new law coded in Minnesota Statutes, Chapter 352B.

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