

incurred in the proceedings to be borne by ~~these~~ the petitioner, guardian, or conservator not acting in good faith.

Subd. 3. GUARDIAN OR CONSERVATOR. (a) When the court determines that a guardian or conservator of the person or the estate has rendered necessary services or has incurred necessary expenses for the benefit of the ward or conservatee, the court may order reimbursement or reasonable compensation to be paid from the estate of the ward or conservatee or from the county having jurisdiction over the guardianship or conservatorship if the ward or conservatee is indigent. The court may not deny an award of fees solely because the ward or conservatee is a recipient of medical assistance.

(b) The court shall order reimbursement or reasonable compensation if the guardian or conservator requests payment and the guardian or conservator was nominated by the court or by the county adult protection unit because no suitable relative or other person was available to provide guardianship or conservatorship services necessary to prevent abuse or neglect of a vulnerable adult, as defined in section 626.557.

(c) When a county employee serves as a guardian or conservator as part of his or her employment duties, the court shall order reasonable compensation if the guardian or conservator performs necessary services that are not compensated by the county. The court may order reimbursement to the county from the ward's or conservatee's estate for reasonable compensation paid by the county for services rendered by a guardian or conservator who is a county employee but only if the county shows that after a diligent effort it was unable to arrange for an independent guardian or conservator.

Sec. 27. REPEALER.

Minnesota Statutes 1984, sections 525.16; 525.17; 525.171; 525.172; 525.173; 525.20; 525.201; 525.202; 525.212; 525.213; 525.214; 525.215; and 525.216 are repealed.

Sec. 28. EFFECTIVE DATE.

Sections 1 to 25 and 27 are effective for estates of decedents dying after December 31, 1986.

Approved May 29, 1985

CHAPTER 251 — S.F.No. 882

An act relating to commerce; clarifying submission of applications for directors and officers liability insurance; providing for the withdrawal of certain registration statements; broadening the securities transaction exemptions for isolated sales and limited offerings; simplifying an exemption from franchise registration; providing for disclosure of representation by real estate brokers and salespersons; expanding those officers who may verify

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corporate broker licenses; altering re-examination requirements for brokers and salespersons who fail to renew their licenses; altering the unclaimed property reporting deadline for life insurance companies; raising the aggregation amount for holders reporting unclaimed property; specifying dates for notifying and advertising owners of abandoned property; and providing for the notification of all lienholders by a unit owners association in an assessment lien foreclosure; amending Minnesota Statutes 1984, sections 60A.08, by adding a subdivision; 80A.10, by adding a subdivision; 80A.13, subdivision 1; 80A.15, subdivision 2; 80C.03; 82.19, subdivision 3, and by adding a subdivision; 82.20, subdivision 4; 82.21, subdivision 1; 82.22, subdivision 10; 82.24, subdivision 4; 345.41; 345.42, subdivisions 1 and 3; and 515A.3-115; proposing coding for new law in Minnesota Statutes, chapter 82.

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

Section 1. Minnesota Statutes 1984, section 60A.08, is amended by adding a subdivision to read:

Subd. 11. DIRECTORS' AND OFFICERS' LIABILITY POLICIES.
No misrepresentation or omission made in an application or negotiation for any policy providing directors and officers liability coverage for directors or officers of a corporation shall defeat or avoid coverage or prevent the policy from attaching for a director or officer unless the director or officer has signed the application and has actual knowledge of the facts misrepresented or omitted. The application shall be attached to and incorporated into the contract. This subdivision applies with respect to all policies governed by this chapter or issued or renewed in this state.

Sec. 2. Minnesota Statutes 1984, section 80A.10, is amended by adding a subdivision to read:

Subd. 4. WITHDRAWAL. A registration statement that has been on file with the commissioner for a period of nine months and has not become effective is considered to have been withdrawn. If the registration statement has been amended, the nine-month period must be computed from the date of the latest amendment. Notwithstanding the provisions of section 80A.28, subdivision 1, paragraph (c), no part of the filing fee shall be returned if a registration statement is withdrawn pursuant to this subdivision.

Sec. 3. Minnesota Statutes 1984, section 80A.13, subdivision 1, is amended to read:

Subdivision 1. The commissioner may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement if he finds (a) that the order is in the public interest and (b) that

(1) the registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, or any amendment under section 80A.12, subdivision 9, as of its effective date, or any report under section 80A.12, subdivision 8, is incomplete in any material respect or contains any

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statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

(2) any provision of sections 80A.01 to 80A.31 or any rule, order, or condition lawfully imposed under sections 80A.01 to 80A.31 has been willfully violated in connection with the offering, by (i) the person filing the registration statement, (ii) the issuer, any partner, officer, or director of the issuer, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer, or (iii) any underwriter;

(3) the security registered or sought to be registered is the subject of an administrative stop order or similar order or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the offering; but (i) the commissioner may not institute a proceeding against an effective registration statement under this clause more than one year from the date of the order or injunction relied on, and (ii) may not enter an order under this clause on the basis of an order or injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for a stop order under this section;

(4) the issuer's enterprise or method of business includes or would include activities which are illegal where performed;

(5) the offering has worked or tended to work a fraud upon purchasers or would so operate;

(6) except with respect to securities which are being registered by notification, the terms of the securities are unfair and inequitable; provided, however, that the commissioner may not determine that an offering is unfair and inequitable solely on the grounds that the securities are to be sold at an excessive price where the offering price has been determined by arms length negotiation between nonaffiliated parties. The selling price of any security being sold by a broker-dealer licensed in this state shall be presumed to have been determined by arms length negotiation;

(7) when a security is sought to be registered by coordination there has been a failure to comply with the undertaking required by section 80A.10, subdivision 2, clause (d); ~~or~~

(8) the applicant or registrant has failed to pay the proper filing fee; but the commissioner may enter only a denial order under this clause and he shall vacate any such order when the deficiency has been corrected; or

(9) the offering of securities sought to be registered is not firmly underwritten and the maximum amount of proceeds from the sale of the securities is (i)

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not more than \$500,000, and (ii) more than 200 percent of the minimum amount of proceeds required to go forward with the offering.

The commissioner may not institute a stop order proceeding against an effective registration statement solely on the basis of a fact or transaction known to him when the registration statement became effective unless the proceeding is instituted within the next 30 days.

Sec. 4. Minnesota Statutes 1984, section 80A.15, subdivision 2, is amended to read:

Subd. 2. The following transactions are exempted from sections 80A.08 and 80A.16:

(a) Any isolated sales, whether or not effected through a broker-dealer, provided that no person shall make more than five ten sales of securities of the same issuer pursuant to this exemption during any period of 12 consecutive months; provided further, that in the case of sales by an issuer, except sales of securities registered under the Securities Act of 1933 or exempted by section 3(b) of that act, (1) the seller reasonably believes that all buyers are purchasing for investment, and (2) the securities are not advertised for sale to the general public in newspapers or other publications of general circulation or otherwise, or by radio, television, ~~or direct mailing~~ electronic means or similar communications media, or through a program of general solicitation by means of mail or telephone.

(b) Any nonissuer distribution of an outstanding security if (1) either Moody's, Fitch's, or Standard & Poor's Securities Manuals, or other recognized manuals approved by the commissioner contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date not more than 18 months prior to the date of the sale, and a profit and loss statement for the fiscal year preceding the date of the balance sheet, and (2) the issuer or its predecessor has been in active, continuous business operation for the five-year period next preceding the date of sale, and (3) if the security has a fixed maturity or fixed interest or dividend provision, the issuer has not, within the three preceding fiscal years, defaulted in payment of principal, interest, or dividends on the securities.

(c) The execution of any orders by a licensed broker-dealer for the purchase or sale of any security, pursuant to an unsolicited offer to purchase or sell; provided that the broker-dealer acts as agent for the purchaser or seller, and has no direct material interest in the sale or distribution of the security, receives no commission, profit, or other compensation from any source other than the purchaser and seller and delivers to the purchaser and seller written confirmation of the transaction which clearly itemizes his commission, or other compensation.

(d) Any nonissuer sale of notes or bonds secured by a mortgage lien if the entire mortgage, together with all notes or bonds secured thereby, is sold to a single purchaser at a single sale.

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(e) Any judicial sale, exchange, or issuance of securities made pursuant to an order of a court of competent jurisdiction.

(f) The sale, by a pledge holder, of a security pledged with him in good faith as collateral for a bona fide debt.

(g) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity.

(h) Any sales by an issuer to the number of persons as, ~~when aggregated with the number of persons to whom sales have been made pursuant to clause (a) or (k),~~ that shall not exceed 25 persons in this state, or 35 persons if the sales are made in compliance with Regulation D promulgated by the Securities and Exchange Commission, Code of Federal Regulations, title 17, sections 230.501 to 230.506, (other than those designated in clause paragraph (a) or (g)) ~~during any period of 12 consecutive months,~~ whether or not any of the purchasers is then present in this state, if (1) the issuer reasonably believes that all of the buyers in this state (other than those designated in clause (g)) are purchasing for investment, and (2) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer in this state (other than those designated in clause (g)), except reasonable and customary commissions paid by the issuer to a broker-dealer licensed under this chapter, and (3) the issuer has, ten days prior to any sale pursuant to this paragraph, supplied the commissioner with a statement of issuer on forms prescribed by the commissioner, containing the following information: (i) the name and address of the issuer, and the date and state of its organization; (ii) the number of units, price per unit, and a description of the securities to be sold; (iii) the amount of commissions to be paid and the persons to whom they will be paid; (iv) the names of all officers, directors and persons owning five percent or more of the equity of the issuer; (v) a brief description of the intended use of proceeds; (vi) a description of all sales of securities made by the issuer within the ~~12-month~~ six-month period next preceding the date of filing; and (vii) a copy of the investment letter, if any, intended to be used in connection with any sale. Sales that are made more than six months before the start of an offering made pursuant to this exemption or are made more than six months after completion of an offering made pursuant to this exemption will not be considered part of the offering, so long as during those six-month periods there are no sales of unregistered securities (other than those made pursuant to paragraph (a) or (g)) by or for the issuer that are of the same or similar class as those sold under this exemption. The commissioner may by rule or order as to any security or transaction or any type of security or transaction, withdraw or further condition this exemption, or increase the number of offers and sales permitted, or waive the conditions in clause (1), (2), or (3) with or without the substitution of a limitation or remuneration.

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(i) Any offer (but not a sale) of a security for which a registration statement has been filed under sections 80A.01 to 80A.31, if no stop order or refusal order is in effect and no public proceeding or examination looking toward an order is pending; and any offer of a security if the sale of the security is or would be exempt under this section. The commissioner may by rule exempt offers (but not sales) of securities for which a registration statement has been filed as he deems appropriate, consistent with the purposes of sections 80A.01 to 80A.31.

(j) The offer and sale by a cooperative association organized under chapter 308, of its securities when the securities are offered and sold only to its members, or when the purchase of the securities is necessary or incidental to establishing membership in such association, or when such securities are issued as patronage dividends.

(k) Any offer or sale of securities, including offers and sales pursuant to preorganization subscriptions for the securities of an issuer to be formed, by a corporation having its principal office in this state if, after giving effect thereto, the aggregate number of holders of all of the issuer's securities, all of whom shall have purchased for investment, does not exceed ten, exclusive of persons designated in clause (g), provided that no commission or other remuneration has been paid and no advertising has been published or circulated in connection with the sale, and all sales are consummated within 30 days after commencement of business by the issuer. The commissioner may by rule or order increase the number of persons to whom sales may be made under this exemption.

(l) The issuance and delivery of any securities of one corporation to another corporation or its security holders in connection with a merger, exchange of shares, or transfer of assets whereby the approval of stockholders of the other corporation is required to be obtained, provided, that the commissioner has been furnished with a general description of the transaction and with other information as he by rule prescribes not less than ten days prior to the issuance and delivery.

(m) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter or among underwriters.

(n) The distribution by a corporation of its or other securities to its own security holders as a stock dividend or as a dividend from earnings or surplus or as a liquidating distribution; or upon conversion of an outstanding convertible security; or pursuant to a stock split or reverse stock split.

(o) Any offer or sale of securities by an affiliate of the issuer thereof if: (1) a registration statement is in effect with respect to securities of the same class of the issuer and (2) the offer or sale has been exempted from registration by rule or order of the commissioner.

Sec. 5. Minnesota Statutes 1984, section 80C.03, is amended to read:

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80C.03 EXEMPTIONS.

The registration requirement imposed by section 80C.02 shall not apply to the following provided that the method of offer or sale is not used for the purpose of evading sections 80C.01 to 80C.22:

(a) The offer or sale by a franchisee of a franchise owned by him, or the offer or sale by a subfranchisor of the entire area franchise owned by him if the sale is not effected by or through a franchisor; provided, however, that no person shall make more than one sale during any period of 12 consecutive months of a franchise or area franchise granted by a single franchisor. A sale is not effected by or through a franchisor merely because a franchisor has a right to approve or disapprove a different franchisee;

(b) Any transaction by an executor, administrator, sheriff, receiver, trustee in bankruptcy, guardian or conservator;

(c) Any offer or sale to a banking organization, financial organization or life insurance corporation within the meanings given these terms by section 345.31;

(d) Securities currently registered in this state pursuant to chapter 80A;

(e) The offer or sale of a franchise, not including an area franchise, provided that:

(1) Neither the franchisor nor any predecessor or affiliate of the franchisor has more than two franchises in Minnesota at the time of any such offer or will have more than three franchises in Minnesota immediately following any such sale the franchisor shall make no more than one sale of a franchise pursuant to this exemption during any period of 12 consecutive months;

(2) the franchisor has not directed or caused to be directed any advertisement for the franchise to anyone within Minnesota who has not requested it; and advertised the franchise for sale to the general public in newspapers or other publications of general circulation or otherwise by radio, television, electronic means or similar communications media, or through a program of general solicitation by means of mail or telephone;

(3) the franchisor deposits all franchisee fees within two days of receipt in an escrow account until all obligations of the franchisor to the franchisee which are, pursuant to the terms of the franchise agreement, to be performed prior to the opening of the franchise, have been performed. The franchisor shall provide the franchisee with a purchase receipt for the franchise fees paid, a copy of the escrow agreement and the name, address and telephone number of the escrow agent. The escrow agent shall be a bank located in Minnesota. All such franchise fees shall be deposited in the escrow account within two business days after receipt. Upon a showing of good cause the commissioner may waive the escrow of franchise fees; and

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(4) the franchisor has filed with provided to the commissioner, no later than 10 business days prior to the ~~date of the first sale~~, a written notice of its intention to offer or sell ~~franchises~~ a franchise pursuant to the ~~exemptions set forth in this paragraph~~, which notice shall be accompanied by a fee of \$50, together with a copy of the disclosure document and standard franchise agreement of the franchisor, which documents are required to be supplied by the franchisor to the franchisee pursuant to rules of the Federal Trade Commission this exemption.

(f) The offer or sale of a fractional franchise;

(g) Any transaction which the commissioner by rule or order exempts as not being within the purposes of this chapter and the registration of which he or she finds is not necessary or appropriate in the public interest or for the protection of investors; and

(h) The offer or sale of a franchise to a resident of a foreign state, territory, or country who is neither domiciled in this state nor actually present in this state, if the franchise business is not to be operated wholly or partly in this state, and if the sale of this franchise is not in violation of any law of the foreign state, territory, or county concerned.

Sec. 6. Minnesota Statutes 1984, section 82.19, subdivision 3, is amended to read:

Subd. 3. No real estate broker or salesperson shall offer, pay or give, and no person shall accept, any compensation or other thing of value from any real estate broker or salesperson by way of commission-splitting, rebate, finder's fees or otherwise, in connection with any real estate or business opportunity transaction; provided this subdivision does not apply to transactions (1) between a licensed real estate broker or salesperson and the person by whom he is engaged to purchase or sell real estate or business opportunity, (2) among persons licensed as provided herein, and (3) between a licensed real estate broker or salesperson and persons from other jurisdictions similarly licensed in that jurisdiction. A licensed real estate broker or salesperson may assign or direct that commissions or other compensation earned in connection with any real estate or business opportunity transaction be paid to a corporation of which the licensed real estate broker or salesperson is the sole owner.

Sec. 7. Minnesota Statutes 1984, section 82.19, is amended by adding a subdivision to read:

Subd. 5. DISCLOSURE REGARDING REPRESENTATION OF PARTIES. (a) No person licensed pursuant to this chapter or who otherwise acts as a real estate broker or salesperson shall represent any party or parties to a real estate transaction or otherwise act as a real estate broker or salesperson unless he or she makes an affirmative written disclosure to all parties to the transaction as to which party he or she represents in the transaction. The disclosure shall be

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printed in at least six-point bold type on the purchase agreement and acknowledged by separate signatures of the buyer and seller.

(b) The disclosure required by this subdivision must be made by the licensee prior to any offer being made to or accepted by the buyer. A change in licensee's representation that makes the initial disclosure incomplete, misleading, or inaccurate requires that a new disclosure be made at once.

(c) The seller may, in the listing agreement, authorize the seller's broker to disburse part of the broker's compensation to other brokers, including the buyer's brokers solely representing the buyer. A broker representing a buyer shall make known to the seller or the seller's agent the fact of the agency relationship before any showing or negotiations are initiated.

Sec. 8. Minnesota Statutes 1984, section 82.20, subdivision 4, is amended to read:

Subd. 4. **CORPORATE AND PARTNERSHIP LICENSES.** (a) A corporation applying for a license shall have at least one officer individually licensed to act as broker for the corporation. The corporation broker's license shall extend no authority to act as broker to any person other than the corporate entity. Each officer who intends to act as a broker shall obtain a license;

(b) A partnership applying for a license shall have at least one partner individually licensed to act as broker for the partnership. Each partner who intends to act as a broker shall obtain a license;

(c) Applications for a license made by a corporation shall be verified by the president and ~~secretary~~ one other officer. Applications made by a partnership shall be verified by at least two partners;

(d) Any partner or officer who ceases to act as broker for a partnership or corporation shall notify the commissioner upon said termination. The individual licenses of all salespersons acting on behalf of a corporation or partnership, are automatically ineffective upon the revocation or suspension of the license of the partnership or corporation. The commissioner may suspend or revoke the license of an officer or partner without suspending or revoking the license of the corporation or partnership;

(e) The application of all officers of a corporation or partners in a partnership who intend to act as a broker on behalf of a corporation or partnership shall accompany the initial license application of the corporation or partnership. Officers or partners intending to act as brokers subsequent to the licensing of the corporation or partnership shall procure an individual real estate broker's license prior to acting in the capacity of a broker. No license as a real estate salesperson shall be issued to any officer of a corporation or member of a partnership to which a license was issued as a broker;

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(f) The corporation or partnership applicant shall make available upon request, such records and data required by the commissioner for enforcement of this chapter.

Sec. 9. Minnesota Statutes 1984, section 82.22, subdivision 10, is amended to read:

Subd. 10. **RENEWAL; EXAMINATION.** Except as provided in subdivisions 3 and 7, no examination shall be required for the renewal of any license, provided, however, any licensee having been licensed as a broker or salesperson in the state of Minnesota and who shall fail to renew the license for a period of ~~one~~ two years shall be required by the commissioner to again take an examination.

Sec. 10. Minnesota Statutes 1984, section 82.24, subdivision 4, is amended to read:

Subd. 4. **COMMINGLING FUNDS.** A broker or salesperson shall deposit only trust funds in a trust account and shall not commingle personal funds or other funds in a trust account, except that a broker or salesperson may deposit and maintain a sum not to exceed ~~\$100~~ \$500 in a trust account from his personal funds, which sum shall be specifically identified and used to pay service charges relating to the trust account.

Sec. 11. Minnesota Statutes 1984, section 345.41, is amended to read:

345.41 REPORT OF ABANDONED PROPERTY.

(a) Every person holding funds or other property, tangible or intangible, presumed abandoned under sections 345.31 to 345.60 shall report annually to the commissioner with respect to the property as hereinafter provided.

(b) The report shall be verified and shall include:

(1) except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of the value of ~~\$10~~ \$25 or more presumed abandoned under sections 345.31 to 345.60;

(2) in case of unclaimed funds of life insurance corporations, the full name of the policyholder, insured or annuitant and his last known address according to the life insurance corporation's records;

(3) the nature and identifying number, if any, or description of the property and the amount appearing from the records to be due, except that items of value under ~~\$10~~ \$25 each may be reported in aggregate;

(4) the date when the property became payable, demandable or returnable, and the date of the last transaction with the owner with respect to the property; and

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(5) other information which the commissioner prescribes by rule as necessary for the administration of sections 345.31 to 345.60.

(c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November 1 of each year as of June 30 next preceding, but the report of life insurance corporations shall be filed before May October 1 of each year as of December 31 next preceding. The commissioner may postpone the reporting date upon written request by any person required to file a report.

(e) If the holder of property presumed abandoned under sections 345.31 to 345.60 knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, inform the owner of the steps necessary to prevent abandonment from being presumed.

(f) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer, and if made by a public corporation, by its chief fiscal officer.

(g) Holders of property described in section 345.32 shall not impose any charges against property which is described in section 345.32, clauses (a), (b) or (c).

(h) Any person who has possession of property which he has reason to believe will be reportable in the future as unclaimed property may, with the permission of the commissioner, report and deliver such property prior to the date required for reporting in accordance with this section.

Sec. 12. Minnesota Statutes 1984, section 345.42, subdivision 1, is amended to read:

Subdivision 1. ~~Within 120 days from the filing of the report required by section 345.41~~ On or before April 1 of each year, the commissioner shall cause notice to be published at least once but not more than twice in an English language newspaper of general circulation in the county in this state in which is located the last known address of any person to be named in the notice. If no address is listed or if the address is outside this state, the notice shall be published in the county in which the holder of the abandoned property has his principal place of business within this state.

Sec. 13. Minnesota Statutes 1984, section 345.42, subdivision 3, is amended to read:

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Subd. 3. ~~Within 120 days from the receipt of the report required by section 345.41~~ On or before April 1 of each year, the commissioner shall mail a notice to each person having an address listed therein who appears to be entitled to property of the value of \$25 or more presumed abandoned under sections 345.31 to 345.60. Said notice shall contain:

(a) a statement that, according to a report filed with the commissioner, property is being held to which the addressee appears entitled;

(b) the name and address of the person holding the property and any necessary information regarding changes of name and address of the holder; and

(c) a statement that, if satisfactory proof of claim is not presented by the owner to the holder by the date specified in the published notice, the property will be placed in the custody of the commissioner to whom all further claims must be directed.

Sec. 14. Minnesota Statutes 1984, section 515A.3-115, is amended to read:

515A.3-115 LIEN FOR ASSESSMENTS.

(a) The association has a lien on a unit for any assessment levied against that unit from the time the assessment becomes payable. The association's lien may be foreclosed as provided by the laws of this state as if it were a lien under a mortgage containing a power of sale but the association shall give reasonable notice of its action to all lienholders of the unit whose interest would be affected. The rights of the parties shall be the same as those provided by law except that the period of redemption for unit owners shall be six months from the date of sale. Unless the declaration otherwise provides, fees, charges, late charges, and interest charges pursuant to section 515A.3-102(8), (9) and (12) are enforceable as assessments under this section.

(b) A lien under this section is prior to all other liens and encumbrances on a unit except (1) liens and encumbrances recorded before the recordation of the declaration, (2) any recorded mortgage on the unit securing a first mortgage holder, and (3) liens for real estate taxes and other governmental assessments or charges against the unit. This subsection does not affect the priority of mechanics' or materialmen's liens.

(c) Recording of the declaration constitutes record notice and perfection of the lien, and no further recordation of any claim of lien for assessment under this section is required.

(d) Proceedings to enforce an assessment must be instituted within three years after the last installment of the assessment becomes payable.

(e) Unit owners at the time an assessment is payable are personally liable to the association for payment of the assessments.

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(f) A foreclosure sale, judgment or decree in any action, proceeding or suit brought under this section shall include costs and reasonable attorney's fees for the prevailing party.

(g) The association shall furnish to a unit owner or his authorized agent upon written request of the unit owner or his authorized agent a recordable statement setting forth the amount of unpaid assessments currently levied against his unit. The statement shall be furnished within ten business days after receipt of the request and is binding on the association and every unit owner.

Sec. 15. **EFFECTIVE DATE.**

Sections 11 to 13 are effective January 1, 1986.

Approved May 29, 1985

CHAPTER 252 — S.F.No. 916

An act relating to human services; authorizing the commissioner to establish a state advisory planning council; requiring counties to contract with nonprofit organizations; changing set aside project amounts; revising procedures and requirements under the aid to families with dependent children, medical assistance, and general assistance programs; appropriating money; amending Minnesota Statutes 1984, sections 245.70, subdivision 1; 245.71; 245.711, subdivision 2; 245.713, subdivision 2; 256.12, subdivision 20; 256.73, subdivisions 2, 3a, and 6; 256.736, subdivisions 3 and 4; 256.74, subdivisions 1, 1a, and 2; 256.76, subdivision 1; 256.78; 256.79; 256.871, subdivision 3; 256.99; 256B.02, subdivisions 2 and 3; 256B.06, subdivision 1; 256B.07; 256B.17, subdivision 6; 256D.01, subdivision 1a; and 256D.06, by adding a subdivision.

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

Section 1. Minnesota Statutes 1984, section 245.70, subdivision 1, is amended to read:

Subdivision 1. **MENTALLY RETARDED AND MENTALLY ILL.** The commissioner of human services is designated the state agency to establish and administer a state-wide plan for the ~~construction, equipment, maintenance, and operation of any facilities~~ for the care, treatment, diagnosis, or rehabilitation, of the ~~mentally retarded or mentally ill~~ which are or may be required as a condition for eligibility for benefits under any federal law and in particular under the Federal Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (P.L. 88-164) Alcohol, Drug Abuse and Mental Health Block Grant Law, United States Code, title 42, sections 300X to 300X-9. The commissioner of human services is authorized and directed to receive, administer,

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