

## 517.04 SOLEMNIZATION.

Marriages may be solemnized throughout the state by a judge of a court of record, a retired judge of a court of record, a court administrator, a retired court administrator with the approval of the chief judge of the judicial district, a former court commissioner who is employed by the court system or is acting pursuant to an order of the chief judge of the commissioner's judicial district, the residential school administrators of the Minnesota state academy for the deaf and the Minnesota state academy for the blind, a licensed or ordained minister of any religious denomination, or by any mode recognized in section 517.18.

Presented to the governor May 4, 1995

Signed by the governor May 5, 1995, 9:08 a.m.

## CHAPTER 130—H.F.No. 651

*An act relating to probate; clarifying and correcting provisions of the uniform probate code; expanding authority for safe deposit box searches, division and merger of trusts, and granting of power-of-attorney to spouses in certain cases; amending Minnesota Statutes 1994, sections 55.10, subdivision 4; 501B.16; 501B.71, by adding a subdivision; 507.02; 519.06; 519.07; 519.11, subdivision 2; 523.23, subdivision 1; 523.24, subdivision 1; 524.1-201; 524.2-508; 524.3-914; 524.3-916; 524.3-1001; 524.3-1008; 524.3-1201; 524.3-1202; and 524.3-1203; proposing coding for new law in Minnesota Statutes, chapters 501B; and 524; repealing Minnesota Statutes 1994, sections 525.145; and 525.51.*

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

Section 1. Minnesota Statutes 1994, section 55.10, subdivision 4, is amended to read:

Subd. 4. **WILL SEARCHES, BURIAL DOCUMENTS PROCUREMENT, AND INVENTORY OF CONTENTS.** (a) Upon being furnished with satisfactory proof of death of a sole lessee or the last surviving co-lessee of a safe deposit box, the safe deposit company shall open the box and examine the contents in the presence of an employee of the safe deposit company and an individual who appears in person and furnishes an affidavit stating that the individual believes:

(1) the box may contain the will or deed to a burial lot or a document containing instructions for the burial of the lessee; and

(2) the individual is an interested person as defined in this section and wishes to open the box for any one or more of the following purposes:

(i) to conduct a will search;

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(ii) to obtain a document required to facilitate the lessee's wishes regarding body, funeral, or burial arrangements; or

(iii) to obtain an inventory of the contents of the box.

(b) The safe deposit company may not open the box under this section if it has received a copy of letters of office of the representative of the deceased lessee's estate or other applicable court order.

~~(b)~~ (c) The safe deposit company need not open the box if:

(1) the box has previously been opened under this section for the same purpose;

(2) the safe deposit company has received notice of a written or oral objection from any person or has reason to believe that there would be an objection; or

(3) the lessee's key or combination is not available.

~~(e)~~ (d) For purposes of this section, the term "interested person" means any of the following:

(1) a person named as personal representative in a purported will of the lessee;

(2) a person who immediately prior to the death of the lessee had the right of access to the box as a deputy;

(3) the surviving spouse of the lessee;

(4) a devisee of the lessee;

(5) an heir of the lessee; or

(6) a person designated by the lessee in a writing acceptable to the safe deposit company which is filed with the safe deposit company before death.

~~(e)~~ (e) For purposes of this section, the term "will" includes a will or a codicil.

~~(e)~~ (f) If the box is opened for the purpose of conducting a will search, the safe deposit company shall remove any document that appears to be a will and make a true and correct machine copy thereof, replace the copy in the box, and then deliver the original thereof to the clerk of court for the county in which the lessee resided immediately before the lessee's death, if known to the safe deposit company, otherwise to the clerk of the court for the county in which the safe deposit box is located. The will ~~may~~ must be personally delivered or sent by registered mail. If the interested person so requests, any deed to burial lot or document containing instructions for the burial of the lessee may be copied by the safe deposit box company and the copy or copies thereof delivered to the interested person. ~~No other contents may be removed pursuant to this subdivision.~~

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(g) If the box is opened for the purpose of obtaining a document required to facilitate the lessee's wishes regarding the body, funeral, or burial arrangements, any such document may be removed from the box and delivered to the interested person with a true and correct machine copy retained in the box. If the safe deposit box company discovers a document that appears to be a will, the safe deposit company shall act in accordance with paragraph (f).

(h) If the box is opened for the purpose of obtaining an inventory of the contents of the box, the employee of the safe deposit company shall make, or cause to be made, an inventory of the contents of the box, to which the employee and the interested person shall attest under penalty of perjury to be correct and complete. Within ten days of opening the box pursuant to this subdivision, the safe deposit company shall deliver the original inventory of the contents to the clerk of court for the county in which the lessee resided immediately before the lessee's death, if known to the safe deposit company, otherwise to the clerk of court for the county in which the safe deposit box is located. The inventory must be personally delivered or sent by registered mail. If the interested person so requests, the safe deposit company shall make a true and correct copy of any document in the box and deliver that copy to the interested person. If the contents of the box include a document that appears to be a will, the safe deposit company shall act in accordance with paragraph (f).

(f) (i) The safe deposit company need not ascertain the truth of any statement in the affidavit required to be furnished under this subdivision and when acting in reliance upon an affidavit, it is discharged as if it dealt with the personal representative of the lessee. The safe deposit company is not responsible for the adequacy of the description of any property included in an inventory of the contents of a safe deposit box. If the safe deposit company is not satisfied that the requirements of this subdivision have been met, it may decline to open the box.

(j) No contents of a box other than a will and a document required to facilitate the lessee's wishes regarding body, funeral, or burial arrangements may be removed pursuant to this subdivision. The entire contents of the box, however, may be removed pursuant to section 524.3-1201.

## Sec. 2. [501B.15] DIVISION AND MERGER OF TRUSTS.

Subdivision 1. DIVISION. A trustee may, without the approval of any court, divide a trust, before or after it is funded, into two or more separate trusts if the trustee determines that dividing the trust is in the best interests of all persons interested in the trust and will not substantially impair the accomplishment of the purposes of the trust.

Subd. 2. MERGER. A trustee may, without the approval of any court, merge two or more trusts having substantially similar terms and identical beneficiaries into a single trust if the trustee determines that merging the trusts is in the best interests of all persons interested in the trusts and will not substantially impair the accomplishment of the purposes of the trusts.

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Subd. 3. APPLICATION. Subdivisions 1 and 2 apply to all trusts whenever executed or created.

Sec. 3. Minnesota Statutes 1994, section 501B.16, is amended to read:

**501B.16 PETITION FOR COURT ORDER.**

A trustee of an express trust by will or other written instrument or a person interested in the trust may petition the district court for an order:

- (1) to confirm an action taken by a trustee;
- (2) upon filing of an account, to settle and allow the account;
- (3) to determine the persons having an interest in the income or principal of the trust and the nature and extent of their interests;
- (4) to construe, interpret, or reform the terms of a trust, or authorize a deviation from the terms of a trust, including a proceeding involving section 501B.31;
- (5) to approve payment of the trustee's fees, attorneys' fees, accountants' fees, or any other fees to be charged against the trust;
- (6) to confirm the appointment of a trustee;
- (7) to accept a trustee's resignation and discharge the trustee from the trust;
- (8) to require a trustee to account;
- (9) to remove a trustee for cause;
- (10) to appoint a successor trustee when required by the terms of the trust instrument or when by reason of death, resignation, removal, or other cause there is no acting trustee;
- (11) to confirm an act performed in execution of the trust by a person while there was no acting trustee;
- (12) to subject a trust to continuing court supervision under section 501B.23;
- (13) to remove a trust from continuing court supervision under section 501B.23;
- (14) to mortgage, lease, sell, or otherwise dispose of real property held by the trustee notwithstanding any contrary provision of the trust instrument;
- (15) to suspend the powers and duties of a trustee in military service or war service in accordance with section 525.95 and to order further action authorized in that section;

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(16) to secure compliance with the provisions of sections 501B.33 to 501B.45, in accordance with section 501B.41;

(17) to determine the validity of a disclaimer filed under section 501B.86;

(18) to change the situs of a trust;

(19) to redress a breach of trust;

(20) to terminate a trust; or

(21) to divide a trust under section 501B.15;

(22) to merge two or more trusts under section 501B.15; or

(23) to instruct the trustee, beneficiaries, and any other interested parties in any matter relating to the administration of the trust and the discharge of the trustee's duties.

Sec. 4. Minnesota Statutes 1994, section 501B.71, is amended by adding a subdivision to read:

Subd. 5. EXCEPTIONS. Paragraphs (a) to (c) are exceptions to the requirements of subdivisions 1 to 4.

(a) With respect to a revocable living trust, during the lifetime of the grantor, all of the trustee's regular compensation for services performed must be charged against income, unless directed otherwise by the grantor.

(b) If charging a part or all of the trustee's regular compensation to principal, in the judgment of the trustee, is impracticable, because of the lack of sufficient cash and readily marketable assets, or inadvisable, because of the nature of the principal assets, the trustee may determine to pay part or all of the compensation out of income. The decision of the trustee to pay a larger portion or all of the trustee's regular compensation out of income is conclusive, and the income of the trust is not entitled to reimbursement from principal at any subsequent time or times.

(c) If charging a part or all of the trustee's regular compensation to income, in the judgment of the trustee, is impracticable, because of the lack of sufficient income, or inadvisable, because of a desire to provide maximum income to the beneficiary, the trustee may determine to pay part or all of such compensation out of principal. The decision of the trustee to pay a larger portion or all of the trustee's regular compensation out of the principal is conclusive.

Sec. 5. Minnesota Statutes 1994, section 507.02, is amended to read:

**507.02 CONVEYANCES BY SPOUSES; POWERS OF ATTORNEY.**

If the owner is married, no conveyance of the homestead, except a mortgage for purchase money unpaid thereon, a conveyance between spouses pursuant to

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section 500.19, subdivision 4, or a severance of a joint tenancy pursuant to section 500.19, subdivision 5, shall be valid without the signatures of both spouses. A spouse's signature may be made by the spouse's duly appointed attorney-in-fact.

A husband and wife, by their joint deed, may convey the real estate of either. A spouse, by separate deed, may convey any real estate owned by that spouse, except the homestead, subject to the rights of the other spouse therein; and either spouse may, by separate conveyance, relinquish all rights in the real estate so conveyed by the other spouse. Subject to the foregoing provisions, either spouse may separately appoint an ~~attorney~~ attorney-in-fact to sell or convey any real estate owned by that spouse, or join in any conveyance made by or for the other spouse. Use of a power of attorney is subject to section 518.58, subdivision 1a. A minor spouse has legal capacity to join in a conveyance of real estate owned by the other spouse, so long as the minor spouse is not incapacitated because of some reason other than that spouse's minor age.

Sec. 6. Minnesota Statutes 1994, section 519.06, is amended to read:

**519.06 CONTRACTS BETWEEN HUSBAND AND WIFE.**

No contract between husband and wife relative to the real estate of either, or any interest therein, ~~nor any power of attorney or other authority from the one to the other to convey real estate, or any interest therein;~~ shall be valid, except as provided in section 500.19, subdivisions 4 and 5; but, in relation to all other subjects, either may be ~~constituted the agent of the other;~~ or contract with the other. A husband or wife may appoint the other as an attorney-in-fact with respect to all property of the principal, or any interest in the property, whether real, personal, or mixed. Use of a power of attorney is subject to section 518.58, subdivision 1a. In all cases where the rights of creditors or purchasers in good faith come in question, each spouse shall be held to have notice of the contracts and debts of the other as fully as if a party thereto.

Sec. 7. Minnesota Statutes 1994, section 519.07, is amended to read:

**519.07 BARRING INTEREST OF SPOUSE; RIGHTS RECIPROCAL.**

~~When a person shall be deserted by a spouse, for the space of one year, or when the person would, for any cause, be entitled to a divorce from the spouse under the laws of this state, or when the person has a spouse that has been insane for ten years immediately prior to the time of bringing the action hereinafter named; and upon the hearing thereof shall be found to be incurably insane; the person may bring an action in the district court of the proper county, asking for a decree which shall debar the spouse from any right or estate by the curtesy or in dower, or otherwise, as the case may be, in or to the person's lands, and which will give the person full authority to alien, sell, and convey, and dispose of the lands, without the interference of or signature of the spouse; and the court may grant such decree when it shall appear just or expedient; and thereupon the person shall have full control of the real estate, with power to convey the same~~

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without the spouse joining in the conveyance, and as fully as if the person were unmarried; or the court may, by such decree, make such limitations on the power to convey such real estate as may seem meet and proper in the premises. A person who has an interest in real estate may bring an action in any county in which all or a part of the real estate is located, seeking a decree that will bar any inchoate interest of the person's spouse in the real estate. The court may grant such a petition if the court finds by clear and convincing evidence that the person's spouse is an incapacitated person as defined in section 525.54, that the person has been deserted by the spouse for a period of at least one year, or that other similar circumstances warrant. The decree may grant the person full control of all the person's real estate located in Minnesota, with power to sell, convey, mortgage, lease, or transfer title to it, subject to any limitations the court considers proper in the circumstances. The decree may not be granted or must be vacated if the petitioner caused or contributed to the incapacity or disappearance of the petitioner's spouse. A certified copy of such decree may be recorded in the deed records in the office of the county recorder or filed in the office of registrar of titles in any county wherever such ~~lands~~ real estate, or any part thereof, may be situated.

Sec. 8. Minnesota Statutes 1994, section 519.11, subdivision 2, is amended to read:

Subd. 2. **WRITING; EXECUTION.** Antenuptial or postnuptial contracts or settlements shall be in writing, executed in the presence of two witnesses and acknowledged by the parties, executing the same before any officer or person authorized to administer an oath under the laws of this state. An antenuptial contract must be entered into and executed prior to the day of solemnization of marriage. A power of attorney may not be used to accomplish the purposes of this section.

Sec. 9. Minnesota Statutes 1994, section 523.23, subdivision 1, is amended to read:

Subdivision 1. **FORM.** The following form may be used to create a power of attorney, and, when used, it must be construed in accordance with sections 523.23 and 523.24:

**STATUTORY SHORT FORM POWER OF ATTORNEY  
MINNESOTA STATUTES, SECTION 523.23**

**IMPORTANT NOTICE:** The powers granted by this document are broad and sweeping. They are defined in Minnesota Statutes, section 523.24. If you have any questions about these powers, obtain competent advice. This power of attorney may be revoked by you if you wish to do so. This power of attorney is automatically terminated if it is to your spouse and proceedings are commenced for dissolution, legal separation, or annulment of your marriage. This power of attorney authorizes, but does not require, the attorney-in-fact to act for you.

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Check or "x"

- ..... (A) real property transactions;  
 I choose to limit this power to real property in  
 ..... County, Minnesota, described as follows:  
 (Use legal description. Do not use street address.)  
 (~~NOTE: A person may not grant powers relating to real  
 property transactions in Minnesota to his  
 or her spouse.~~)  
 .....  
 .....  
 .....

(If more space is needed, continue on the back or on an attachment.)

- ..... (B) tangible personal property transactions;
- ..... (C) bond, share, and commodity transactions;
- ..... (D) banking transactions;
- ..... (E) business operating transactions;
- ..... (F) insurance transactions;
- ..... (G) beneficiary transactions;
- ..... (H) gift transactions;
- ..... (I) fiduciary transactions;
- ..... (J) claims and litigation;
- ..... (K) family maintenance;
- ..... (L) benefits from military service;
- ..... (M) records, reports, and statements;
- ..... (N) all of the powers listed in (A) through (M) above  
 and all other matters.

SECOND: (You must indicate below whether or not this power of attorney will be effective if you become incapacitated or incompetent. Make a check or "x" on the line in front of the statement that expresses your intent.)

- ... This power of attorney shall continue to be effective if I become incapacitated or incompetent.
- ... This power of attorney shall not be effective if I become incapacitated or incompetent.

THIRD: (You must indicate below whether or not this power of attorney authorizes the attorney-in-fact to transfer your property to the attorney-in-fact. Make a check or "x" on the line in front of the statement that expresses your intent.)

- ... This power of attorney authorizes the attorney-in-fact to transfer my property to the attorney-in-fact.
- ... This power of attorney does not authorize the attorney-in-fact to transfer my property to the attorney-in-fact.

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(1) to accept as a gift, or as security for a loan, to reject, to demand, to buy, to lease, to receive, or otherwise to acquire either ownership or possession of any estate or interest in real property;

(2) to sell, exchange, convey either with or without covenants, quitclaim, release, surrender, mortgage, encumber, partition or consent the partitioning, plat or consent platting, grant options concerning, lease or sublet, or otherwise to dispose of, any estate or interest in real property;

(3) to release in whole or in part, assign the whole or a part of, satisfy in whole or in part, and enforce by action, proceeding or otherwise, any mortgage, encumbrance, lien, or other claim to real property which exists, or is claimed to exist, in favor of the principal;

(4) to do any act of management or of conservation with respect to any estate or interest in real property owned, or claimed to be owned, by the principal, including by way of illustration, but not of restriction, power to insure against any casualty, liability, or loss, to obtain or regain possession or protect such estate or interest by action, proceeding or otherwise, to pay, compromise or contest taxes or assessments, to apply for and receive refunds in connection therewith, to purchase supplies, hire assistance or labor, and make repairs or alterations in the structures or lands;

(5) to use in any way, develop, modify, alter, replace, remove, erect, or install structures or other improvements upon any real property in which the principal has, or claims to have, any estate or interest;

(6) to demand, receive, obtain by action, proceeding, or otherwise, any money, or other thing of value to which the principal is, or may become, or may claim to be entitled as the proceeds of an interest in real property or of one or more of the transactions enumerated in this subdivision, to conserve, invest, disburse, or utilize anything so received for purposes enumerated in this subdivision, and to reimburse the attorney-in-fact for any expenditures properly made by the attorney-in-fact in the execution of the powers conferred on the attorney-in-fact by the statutory short form power of attorney;

(7) to participate in any reorganization with respect to real property and receive and hold any shares of stock or instrument of similar character received in accordance with a plan of reorganization, and to act with respect to the shares, including, by way of illustration but not of restriction, power to sell or otherwise to dispose of the shares, or any of them, to exercise or sell any option, conversion or similar right with respect to the shares, and to vote on the shares in person or by the granting of a proxy;

(8) to agree and contract, in any manner, and with any person and on any terms, which the attorney-in-fact may select, for the accomplishment of any of the purposes enumerated in this subdivision, and to perform, rescind, reform, release, or modify such an agreement or contract or any other similar agreement or contract made by or on behalf of the principal;

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(9) to execute, acknowledge, seal, and deliver any deed, revocation, mortgage, lease, notice, check, or other instrument which the attorney-in-fact deems useful for the accomplishment of any of the purposes enumerated in this subdivision;

(10) to prosecute, defend, submit to arbitration, settle, and propose or accept a compromise with respect to, any claim existing in favor of, or against, the principal based on or involving any real estate transaction or to intervene in any action or proceeding relating to the claim;

(11) to hire, discharge, and compensate any attorney, accountant, expert witness, or other assistant or assistants when the attorney-in-fact deems that action to be desirable for the proper execution of any of the powers described in this subdivision, and for the keeping of needed records; and

(12) in general, and in addition to all the specific acts in this subdivision, to do any other act with respect to any estate or interest in real property.

All powers described in this subdivision are exercisable equally with respect to any estate or interest in real property owned by the principal at the giving of the power of attorney or acquired after that time, and whether located in the state of Minnesota or elsewhere except when a legal description of certain real property is included in the statutory short form power of attorney, in which case the powers described in this subdivision are exercisable only with respect to the estate or interest owned by the principal in the property described in the form. ~~In the case of real property located in the state of Minnesota, the powers described in this subdivision are limited by the provisions of section 519.06.~~

Sec. 11. Minnesota Statutes 1994, section 524.1-201, is amended to read:

#### 524.1-201 GENERAL DEFINITIONS.

Subject to additional definitions contained in the subsequent articles which are applicable to specific articles or parts, and unless the context otherwise requires, in chapters 524 and 525:

(2) "Application" means a written request to the registrar for an order of informal probate or appointment under article III, part 3.

(3) "Beneficiary," as it relates to trust beneficiaries, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer and as it relates to a charitable trust, includes any person entitled to enforce the trust.

(5) "Child" includes any individual entitled to take as a child under law by intestate succession from the parent whose relationship is involved and excludes any person who is only a stepchild, a foster child, a grandchild or any more remote descendant.

(6) "Claims" includes liabilities of the decedent whether arising in contract

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or otherwise and liabilities of the estate which arise after the death of the decedent including funeral expenses and expenses of administration. The term does not include taxes, demands or disputes regarding title of a decedent to specific assets alleged to be included in the estate, tort claims, foreclosure of mechanic's liens, or to actions pursuant to section 573.02.

(7) "Court" means the court or branch having jurisdiction in matters relating to the affairs of decedents. This court in this state is known as the probate court or county court.

(8) "Conservator" means a person who is appointed by a court to manage the estate of a protected person.

(9) "Descendant" of an individual means all of the individual's descendants of all generations, with the relationship of parent and child at each generation being determined by the definition of child and parent contained in this section.

(10) "Devise," when used as a noun, means a testamentary disposition of real or personal property and when used as a verb, means to dispose of real or personal property by will.

(11) "Devisee" means any person designated in a will to receive a devise. In the case of a devise to an existing trust or trustee, or to a trustee on trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees.

(12) "Disability" means cause for a protective order as described by section 525.54.

(13) "Distributee" means any person who has received or who will receive property of a decedent from the decedent's personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee with respect to property which the trustee has received from a personal representative only to the extent of distributed assets or their increment ~~thereto~~ remaining in the trustee's hands. A beneficiary of a testamentary trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative. For purposes of this provision, "testamentary trustee" includes a trustee to whom assets are transferred by will, to the extent of the devised assets.

(14) "Estate" includes all of the property of the decedent, trust, or other person whose affairs are subject to this chapter as originally constituted and as it exists from time to time during administration.

(16) "Fiduciary" includes personal representative, guardian, conservator and trustee.

(17) "Foreign personal representative" means a personal representative of another jurisdiction.

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(18) "Formal proceedings" means those conducted before a judge with notice to interested persons.

(20) "Guardian" means a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment, but excludes one who is merely a guardian ad litem.

(21) "Heirs" means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

(22) "Incapacitated person" is as described in section 525.54, other than a minor.

(23) "Informal proceedings" means those conducted by the judge, the registrar, or the person or persons designated by the judge for probate of a will or appointment of a personal representative in accordance with sections 524.3-301 to 524.3-311.

(24) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries and any others having a property right in or claim against the estate of a decedent, ward or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative, and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding.

(27) "Lease" includes an oil, gas, or other mineral lease.

(28) "Letters" includes letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship.

(30) "Mortgage" means any conveyance, agreement or arrangement in which property is used as security.

(31) "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of death.

(32) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal entity.

(35) "Person" means an individual, a corporation, an organization, or other legal entity.

(36) "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status. "General personal representative" excludes special administrator.

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(37) "Petition" means a written request to the court for an order after notice.

(38) "Proceeding" includes action at law and suit in equity.

(39) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

(40) "Protected person" is as described in section 525.54, subdivision 1.

(42) "Registrar" refers to the judge of the court or the person designated by the court to perform the functions of registrar as provided in section 524.1-307.

(43) "Security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.

(44) "Settlement," in reference to a decedent's estate, includes the full process of administration, distribution and closing.

(45) "Special administrator" means a personal representative as described by sections 524.3-614 to 524.3-618.

(46) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(47) "Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

(48) "Successors" means those persons, other than creditors, who are entitled to property of a decedent under the decedent's will, this chapter or chapter 525. "Successors" also means a funeral director or county government that provides the funeral and burial of the decedent.

(49) "Supervised administration" refers to the proceedings described in sections 524.3-501 to 524.3-505.

(51) "Testacy proceeding" means a proceeding to establish a will or determine intestacy.

(53) "Trust" includes any express trust, private or charitable, with additions thereto, wherever and however created. It also includes a trust created or determined by judgment or decree under which the trust is to be administered in the

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manner of an express trust. "Trust" excludes other constructive trusts, and it excludes resulting trusts, conservatorships, personal representatives, trust accounts as defined in chapter 528, custodial arrangements pursuant to sections 149.11 to 149.14, 318.01 to 318.06, 527.01 to 527.44, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.

(54) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by court.

(55) "Ward" is as described in section 525.54, subdivision 1.

(56) "Will" includes codicil and any testamentary instrument which merely appoints an executor or revokes or revises another will.

Sec. 12. Minnesota Statutes 1994, section 524.2-508, is amended to read:

**524.2-508 REVOCATION BY CHANGES OF CIRCUMSTANCES.**

Except as provided in sections ~~524.2-802 and~~ 524.2-803 and 524.2-804, a change of circumstances does not revoke a will or any part of it.

**Sec. 13. [524.2-804] REVOCATION BY DISSOLUTION OF MARRIAGE; NO REVOCATION BY OTHER CHANGES OF CIRCUMSTANCES.**

If after executing a will the testator's marriage is dissolved or annulled, the dissolution or annulment revokes any disposition or appointment of property made by the will to the former spouse, any provision conferring a general or special power of appointment on the former spouse, and any nomination of the former spouse as executor, trustee, conservator, or guardian, unless the will expressly provides otherwise. Property prevented from passing to a former spouse because of revocation by dissolution of marriage or annulment passes as if the former spouse failed to survive the decedent, and other provisions conferring some power or office on the former spouse are interpreted as if the spouse failed to survive the decedent. If provisions are revoked solely by this section, they are revived by testator's remarriage to the former spouse. For purposes of chapters 524 and 525, dissolution of marriage includes divorce. A decree of separation which does not terminate the status of husband and wife is not a dissolution of marriage for purposes of this section. No change of circumstances other than as described in this section revokes a will.

Sec. 14. Minnesota Statutes 1994, section 524.3-914, is amended to read:

**524.3-914 UNCLAIMED ASSETS.**

If any asset of the estate has not been distributed because the person enti-

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tled thereto cannot be found or refuses to accept the same, or for any other good and sufficient reason the same has not been paid over, the court may direct the personal representative to deposit the same with the county treasurer, taking duplicate receipts therefor, one of which the personal representative shall file with the county auditor and the other in the court. If the money on hand exceeds the sum of \$2,000 \$5,000, the court may direct the ~~personal representative to purchase with the money bearer bonds of the United States government or of the state of Minnesota, or any of its political subdivisions, which bonds shall be deposited with the county treasurer, taking duplicate receipts therefor, one of which the personal representative shall file with the county auditor and the other in the court~~ county treasurer to invest the funds, and the county treasurer shall collect the interest on these ~~bonds~~ investments as it becomes due, and the money so collected or deposited shall be credited to the county revenue fund. Upon application to the court within 21 years after such deposit, and upon notice to the county attorney and county treasurer, the court may direct the county auditor to issue to the person entitled thereto a the county auditor's warrant for the amount of the money so on deposit including the interest collected on bonds and, in the case of bonds, the county auditor shall issue to the person entitled thereto an order upon the county treasurer to deliver the bonds. No interest shall be allowed or paid thereon, except as herein provided, and if not claimed within such time no recovery thereof shall be had. The county treasurer, with the approval of the court, may make necessary sales, exchanges, substitutions, and transfers of ~~bonds deposited, as aforesaid, investments~~ and may present the same for redemption and invest the proceeds ~~in other bonds of like character~~.

Sec. 15. Minnesota Statutes 1994, section 524.3-916, is amended to read:

**524.3-916 APPORTIONMENT OF ESTATE TAXES AND GENERATION-SKIPPING TAX.**

(a) For purposes of this section:

(1) "estate" means the gross estate of a decedent as determined for the purpose of federal estate tax ~~and or~~ the estate tax payable to this state;

(2) "decedent's generation-skipping transfers" means all generation-skipping transfers as determined for purposes of the federal generation-skipping tax which occur by reason of the decedent's death which relate to property which is included in the decedent's estate;

(3) "person" means any individual, partnership, association, joint stock company, corporation, limited liability company, government, political subdivision, governmental agency, or local governmental agency;

~~(3)~~ (4) "person interested in the estate" means any person entitled to receive, or who has received, from a decedent or by reason of the death of a decedent any property or interest therein included in the decedent's estate. It includes a personal representative, guardian, conservator, ~~and trustee, and custodian;~~

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(4) ~~(5)~~ "state" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

~~(5)~~ (6) "estate tax" means the federal estate tax and the state estate tax determined by the commissioner of revenue pursuant to chapter 291 and interest and penalties imposed in addition to the tax;

(7) "decedent's generation-skipping tax" means the federal generation-skipping tax imposed on the decedent's generation-skipping transfers and interest and penalties imposed in addition to the tax;

~~(6)~~ (8) "fiduciary" means personal representative or trustee.

(b) Unless the will or other ~~written~~ governing instrument otherwise provides;

(1) the estate tax shall be apportioned among all persons interested in the estate. The apportionment is to be made in the proportion that the value of the interest of each person interested in the estate bears to the total value of the interests of all persons interested in the estate. The values used in determining the tax are to be used for that purpose; and

(2) the decedent's generation-skipping tax shall be apportioned as provided by federal law. To the extent not provided by federal law, the decedent's generation-skipping tax shall be apportioned among all persons receiving the decedent's generation-skipping transfers whose tax apportionment is not provided by federal law in the proportion that the value of the transfer to each person bears to the total value of all such transfers.

If the decedent's will or other written instrument directs a method of apportionment of estate tax or of the decedent's generation-skipping tax different from the method described in this code, the method described in the will or other written instrument controls.

(c)(1) The court in which venue lies for the administration of the estate of a decedent, on petition for the purpose may determine the apportionment of the estate tax or of the decedent's generation-skipping tax.

(2) If the court finds that it is inequitable to apportion interest and penalties in the manner provided in subsection (b), because of special circumstances, it may direct apportionment thereof in the manner it finds equitable.

(3) If the court finds that the assessment of penalties and interest assessed in relation to the estate tax or the decedent's generation-skipping tax is due to delay caused by the negligence of the fiduciary, the court may charge the fiduciary with the amount of the assessed penalties and interest.

(4) In any action to recover from any person interested in the estate the amount of the estate tax or of the decedent's generation-skipping tax apportioned to the person in accordance with this code the determination of the court in respect thereto shall be prima facie correct.

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(d)(1) The personal representative or other person in possession of the property of the decedent required to pay the estate tax or the decedent's generation-skipping tax may withhold from any property distributable to any person interested in the estate, upon its distribution, the amount of ~~tax~~ any taxes attributable to the person's interest. If the property in possession of the personal representative or other person required to pay the ~~tax~~ any taxes and distributable to any person interested in the estate is insufficient to satisfy the proportionate amount of the ~~tax~~ taxes determined to be due from the person, the personal representative or other person required to pay the ~~tax~~ any taxes may recover the deficiency from the person interested in the estate. If the property is not in the possession of the personal representative or the other person required to pay the ~~tax~~ any taxes, the personal representative or the other person required to pay the ~~tax~~ any taxes may recover from any person interested in the estate the amount of the ~~tax~~ any taxes apportioned to the person in accordance with ~~Laws 1975, Chapter 347~~ this section.

(2) If property held by the personal representative or other person in possession of the property of the decedent required to pay the estate tax or the decedent's generation-skipping tax is distributed prior to final apportionment of the estate tax or the decedent's generation-skipping tax, the distributee shall provide a bond or other security for the apportionment liability in the form and amount prescribed by the personal representative or other person, as the case may be.

(e)(1) In making an apportionment, allowances shall be made for any exemptions granted, any classification made of persons interested in the estate and for any deductions and credits allowed by the law imposing the tax.

(2) Any exemption or deduction allowed by reason of the relationship of any person to the decedent ~~or~~, by reason of the purposes of the gift, or by allocation to the gift (either by election by the fiduciary or by operation of federal law), inures to the benefit of the person bearing such relationship or receiving the gift; but if an interest is subject to a prior present interest which is not allowable as a deduction, the tax apportionable against the present interest shall be paid from principal.

(3) Any deduction for property previously taxed and any credit for gift taxes or death taxes of a foreign country paid by the decedent or the decedent's estate inures to the proportionate benefit of all persons liable to apportionment.

(4) Any credit for inheritance, succession or estate taxes or taxes in the nature thereof applicable to property or interests includable in the estate, inures to the benefit of the persons or interests chargeable with the payment thereof to the extent proportionately that the credit reduces the tax.

(5) To the extent that property passing to or in trust for a surviving spouse or any charitable, public or similar gift or ~~devisee~~ devisee is not an allowable deduction for purposes of the estate tax solely by reason of an estate tax imposed upon and deductible from the property, the property is not included in the computation provided for in subsection (b)(1) hereof, and to that extent no

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apportionment is made against the property. The sentence immediately preceding does not apply to any case if the result would be to deprive the estate of a deduction otherwise allowable under section 2053(d) of the Internal Revenue Code of ~~1954~~ 1986, as amended, of the United States, relating to deduction for state death taxes on transfers for public, charitable, or religious uses.

(f) No interest in income and no estate for years or for life or other temporary interest in any property or fund is subject to apportionment as between the temporary interest and the remainder. The estate tax on the temporary interest and the estate tax, if any, on the remainder is chargeable against the corpus of the property or funds subject to the temporary interest and remainder. The decedent's generation-skipping tax is chargeable against the property which constitutes the decedent's generation-skipping transfer.

(g) Neither the personal representative nor other person required to pay the tax is under any duty to institute any action to recover from any person interested in the estate the amount of the estate tax or of the decedent's generation-skipping tax apportioned to the person until the expiration of the three months next following final determination of the tax. A personal representative or other person required to pay the estate tax or decedent's generation-skipping tax who institutes the action within a reasonable time after ~~the three month period~~ final determination of the tax is not subject to any liability or surcharge because any portion of the tax apportioned to any person interested in the estate was collectible at a time following the death of the decedent but thereafter became uncollectible. If the personal representative or other person required to pay the estate tax or decedent's generation-skipping tax cannot collect from any person interested in the estate the amount of the tax apportioned to the person, the amount not recoverable shall be equitably apportioned among the other persons interested in the estate who are subject to apportionment of the tax involved.

(h) A personal representative acting in another state or a person required to pay the estate tax or decedent's generation-skipping tax domiciled in another state may institute an action in the courts of this state and may recover a proportionate amount of the federal estate tax, of an estate tax payable to another state or of a death duty due by a decedent's estate to another state, or of the decedent's generation-skipping tax, from a person interested in the estate who is either domiciled in this state or who owns property in this state subject to attachment or execution. For the purposes of the action the determination of apportionment by the court having jurisdiction of the administration of the decedent's estate in the other state is prima facie correct.

Sec. 16. Minnesota Statutes 1994, section 524.3-1001, is amended to read:

**524.3-1001 FORMAL PROCEEDINGS TERMINATING ADMINISTRATION; TESTATE OR INTESATE; ORDER OF DISTRIBUTION, DECREE, AND GENERAL PROTECTION.**

(a)(1) A personal representative or any interested person may petition for an order of complete settlement of the estate. The personal representative may peti-

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tion at any time, and any other interested person may petition after one year from the appointment of the original personal representative except that no petition under this section may be entertained until the time for presenting claims which arose prior to the death of the decedent has expired. The petition may request the court to determine testacy, if not previously determined, to consider the final account or compel or approve an accounting and distribution, to construe any will or determine heirs and adjudicate the final settlement and distribution of the estate. After notice to all interested persons and hearing the court may enter an order or orders, on appropriate conditions, determining the persons entitled to distribution of the estate, and, as circumstances require, approving settlement and directing or approving distribution of the estate and discharging the personal representative from further claim or demand of any interested person.

(2) In such petition for complete settlement of the estate, the petitioner may apply for a decree. Upon the hearing, if in the best interests of interested persons, the court may issue its decree which shall determine the persons entitled to the estate and assign the same to them in lieu of ordering the assignment by the personal representative. The decree shall name the heirs and distributees, state their relationship to the decedent, describe the property, and state the proportions or part thereof to which each is entitled. In the estate of a testate decedent, no heirs shall be named in the decree unless all heirs be ascertained.

(3) In solvent estates, the hearing may be waived by written consent to the proposed account and decree of distribution or order of distribution by all heirs or distributees, and the court may then enter its order allowing the account and issue its decree or order of distribution.

(4) Where a decree or order for distribution is issued, the personal representative shall not be discharged until all property is paid or transferred to the persons entitled ~~thereto~~ to the property, and the personal representative has otherwise fully discharged the ~~trust~~ duties of a personal representative. If an order assessing estate tax or request for documents is filed with the court by the commissioner of revenue, no discharge shall be issued until the assessment is paid or the request is complied with. If no order assessing estate tax or request for documents is filed, the court shall have the power to settle and distribute the estate and discharge the personal representative without regard to tax obligations.

(b) If one or more heirs or devisees were omitted as parties in, or were not given notice of, a previous formal testacy proceeding, the court, on proper petition for an order of complete settlement of the estate under this section, and after notice to the omitted or unnotified persons and other interested parties determined to be interested on the assumption that the previous order concerning testacy is conclusive as to those given notice of the earlier proceeding, may determine testacy as it affects the omitted persons and confirm or alter the previous order of testacy as it affects all interested persons as appropriate in the light of the new proofs. In the absence of objection by an omitted or unnotified per-

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son, evidence received in the original testacy proceeding shall constitute prima facie proof of due execution of any will previously admitted to probate, or of the fact that the decedent left no valid will if the prior proceedings determined this fact.

Sec. 17. Minnesota Statutes 1994, section 524.3-1008, is amended to read:

**524.3-1008 SUBSEQUENT ADMINISTRATION.**

If property of the estate is omitted or discovered after an estate has been settled and the personal representative discharged or after one year after a closing statement has been filed, the court upon petition or the registrar upon application of any interested person and upon notice as it directs may appoint the same or a successor personal representative to administer the subsequently discovered estate. If a new appointment is made, unless the court or registrar orders otherwise, the provisions of this chapter apply as appropriate; but no claim previously barred may be asserted in the subsequent administration.

Sec. 18. Minnesota Statutes 1994, section 524.3-1201, is amended to read:

**524.3-1201 COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT.**

(a) Thirty days after the death of a decedent, (i) any person indebted to the decedent or, (ii) any person having possession of tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action belonging to the decedent, or (iii) any safe deposit company, as defined in section 55.01, controlling the right of access to decedent's safe deposit box shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock or chose in action or deliver the entire contents of the safe deposit box to a person claiming to be the successor of the decedent, or a county agency with a claim authorized by section 256B.15, upon being presented a certified death certificate of the decedent and an affidavit, in duplicate, made by or on behalf of the successor stating that:

(1) the value of the entire probate estate, wherever located, including specifically any contents of a safe deposit box, less liens and encumbrances, does not exceed ~~\$10,000~~ \$20,000;

(2) 30 days have elapsed since the death of the decedent or, in the event the property to be delivered is the contents of a safe deposit box, 30 days have elapsed since the filing of an inventory of the contents of the box pursuant to section 55.10, paragraph (h);

(3) no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction; and

(4) the claiming successor is entitled to payment or delivery of the property.

(b) A transfer agent of any security shall change the registered ownership on

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the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection (a).

(c) The claiming successor or county agency shall disburse the proceeds collected under this section to any person with a superior claim under section 524.2-403 or 524.3-805 ~~or 525.15~~.

(d) A motor vehicle registrar shall issue a new certificate of title in the name of the successor upon the presentation of an affidavit as provided in subsection (a).

(e) The person controlling access to decedent's safe deposit box need not open the box or deliver the contents of the box if:

(1) the person has received notice of a written or oral objection from any person or has reason to believe that there would be an objection; or

(2) the lessee's key or combination is not available.

Sec. 19. Minnesota Statutes 1994, section 524.3-1202, is amended to read:

**524.3-1202 EFFECT OF AFFIDAVIT.**

The person paying, delivering, transferring, or issuing personal property or the evidence thereof pursuant to an affidavit meeting the requirements of section 524.3-1201 is discharged and released to the same extent as if the person dealt with a personal representative of the decedent. The person is not required to see to the application of the personal property or evidence thereof or to inquire into the truth of any statement in the affidavit. In particular, the person delivering the contents of a safe deposit box is not required to inquire into the value of the contents of the box and is authorized to rely solely upon the representation in the affidavit concerning the value of the entire probate estate. If any person to whom an affidavit is delivered refuses to pay, deliver, transfer, or issue any personal property or evidence thereof, it may be recovered or its payment, delivery, transfer, or issuance compelled upon proof of their right in a proceeding brought for the purpose by or on behalf of the persons entitled thereto. Any person to whom payment, delivery, transfer or issuance is made is answerable and accountable therefor to any personal representative of the estate or to any other person having a superior right.

Sec. 20. Minnesota Statutes 1994, section 524.3-1203, is amended to read:

**524.3-1203 SMALL ESTATES; SUMMARY ADMINISTRATIVE PROCEDURE PROCEEDINGS.**

If it appears from the inventory and appraisal that the entire estate, less liens and encumbrances, does not exceed an exempt homestead as provided for in section 525.145, the allowances provided for in section 525.15, costs and expenses of administration, reasonable funeral expenses, and reasonable and necessary medical and hospital expenses of the last illness of the decedent, the

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personal representative, without giving further notice to creditors, may immediately disburse and distribute the estate to the persons entitled thereto and file a closing statement as provided in section 524.3-1204.

Subdivision 1. PETITION AND PAYMENT. Upon petition of an interested person, the court, with or without notice, may determine that the decedent had no estate, or that the property has been destroyed, abandoned, lost, or rendered valueless, and that no recovery has been had nor can be had for it, or if there is no property except property recovered for death by wrongful act, property that is exempt from all debts and charges in the probate court, or property that may be appropriated for the payment of the property selection as provided in section 524.2-403, the allowances to the spouse and children mentioned in section 524.2-404, and the expenses and claims provided in section 524.3-805, paragraph (a), clauses (1) to (6), inclusive, the personal representative by order of the court may pay the estate in the order named. The court may then, with or without notice, summarily determine the heirs, legatees, and devisees in its final decree or order of distribution assigning to them their share or part of the property with which the personal representative is charged.

Subd. 2. FINAL DECREE OR ORDER. If upon hearing of a petition for summary assignment or distribution, for special administration, or for any administration, or for the probate of a will, the court determines that there is no need for the appointment of a representative and that the administration should be closed summarily for the reason that all of the property in the estate is exempt from all debts and charges in the probate court, a final decree or order of distribution may be entered, with or without notice, assigning that property to the persons entitled to it under the terms of the will, or if there is no will, under the law of intestate succession in force at the time of the decedent's death.

Subd. 3. SUMMARY DISTRIBUTION. Summary distribution may be made under this section in any proceeding of any real, personal, or other property in kind in reimbursement or payment of the property selection as provided in section 524.2-403, the allowances to the spouse and children mentioned in section 524.2-404, and the expenses and claims provided in section 524.3-805, paragraph (a), clauses (1) to (6), inclusive, in the order named, if the court is satisfied as to the propriety of the distribution and as to the valuation, based upon appraisal in the case of real estate other than homestead, of the property being assigned to exhaust the assets of the estate.

Subd. 4. PERSONAL REPRESENTATIVE. Summary proceedings may be had with or without the appointment of a personal representative. In all summary proceedings in which no personal representative is appointed, the court may require the petitioner to file a corporate surety bond in an amount fixed and approved by the court. The condition of the bond must be that the petitioner has made a full, true, and correct disclosure of all the facts related in the petition and will perform the terms of the decree or order of distribution issued pursuant to the petition. Any interested person suffering damages as a result of misrepresentation or negligence of the petitioner in stating facts in the petition pursuant to which an improper decree or order of distribution is issued, or the

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terms of the decree or order of distribution are not performed by the petitioner as required, has a cause of action against the petitioner and the surety to recover those damages in the court in which the proceeding took place. That court has jurisdiction of the cause of action.

Subd. 5. EXHAUSTION OF ESTATE. In any summary, special, or other administration in which it appears that the estate will not be exhausted in payment of the priority items enumerated in subdivisions 1 to 4, the estate may nevertheless be summarily closed without further notice, and the property assigned to the proper persons, if the gross probate estate, exclusive of any exempt homestead as defined in section 524.2-402, does not exceed the value of \$30,000. If the closing and distribution of assets is made pursuant to the terms of a will, no decree shall issue until a hearing has been held for formal probate of the will as provided in sections 524.3-401 to 524.3-413.

No summary closing of an estate shall be made to any distributee under this subdivision, unless a showing is made by the personal representative or the petitioner, that all property selected by and allowances to the spouse and children as provided in section 524.2-403 and the expenses and claims provided in section 524.3-805 have been paid, and provided, further, that a bond shall be filed by the personal representative or the petitioner, conditioned upon the fact that all such obligations have been paid and that all the facts shown on the petition are true, with sufficient surety approved by the court in an amount as may be fixed by the court to cover potential improper distributions. If a personal representative is appointed, the representative's bond shall be sufficient for such purpose unless an additional bond is ordered, and the sureties on the bond shall have the same obligations and liabilities as provided for sureties on a distribution bond.

In the event that an improper distribution or disbursement is made in a summary closing, in that not all of said obligations have been paid or that other facts as shown by the personal representative or the petitioner, are not true, resulting in damage to any party, the court may vacate its summary decree or closing order, and the petitioner or the personal representative, together with the surety, shall be liable for damages to any party determined to be injured thereby as herein provided. The personal representative, petitioner, or the surety, may seek reimbursement for damages so paid or incurred from any distributee or recipient of assets under summary decree or order, who shall be required to make a contribution to cover such damages upon a pro rata basis or as may be equitable to the extent of assets so received. The court is hereby granted complete and plenary jurisdiction of any and all such proceedings and may enter such orders and judgments as may be required to effectuate the purposes of this subdivision.

Any judgment rendered for damages or the recovery of assets in such proceedings shall be upon petition and only after hearing held thereon on 14 days' notice of hearing and a copy of petition served personally upon the personal representative and the surety and upon any distributee or recipient of assets where applicable. Any action for the recovery of money or damages under this subdivision is subject to the time and other limitations imposed by section 525.02.

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Sec. 21. **REPEALER.**

Minnesota Statutes 1994, sections 525.145 and 525.51, are repealed.

Sec. 22. **EFFECTIVE DATE; APPLICATION.**

(a) This act is effective January 1, 1996.

(b) Sections 1, 14, 17, 18, 19, and 20 apply to all decedents' estates, whenever the decedent died.

(c) Section 4 applies to all trusts, whenever executed or created.

(d) Sections 6 and 10 apply to powers of attorney executed on or after the effective date.

(e) Sections 12, 13, and 15 apply to the rights of successors of decedents dying on or after the effective date and to any wills of decedents dying on or after the effective date.

Presented to the governor May 4, 1995

Signed by the governor May 5, 1995, 9:07 a.m.

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**CHAPTER 131—H.F.No. 244**

*An act relating to employment; establishing the governor's workforce development council to replace certain other councils; proposing coding for new law in Minnesota Statutes, chapter 268; repealing Minnesota Statutes 1994, sections 126B.02; 121.703; and 268.9755.*

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

**Section 1. [268.665] WORKFORCE DEVELOPMENT COUNCIL.**

Subdivision 1. CREATION. The governor's workforce development council is created under the authority of the Job Training Partnership Act, United States Code, title 29, section 1501, et seq. Local workforce development councils are authorized under the job training partnership act, United States Code, Title 29, section 1501 and the one stop career center system.

Subd. 2. MEMBERSHIP. The governor's workforce development council is composed of 32 members appointed by the governor. The members may be removed pursuant to section 15.059. In selecting the representatives of the council, the governor shall ensure that 50 percent of the members come from nominations provided by local workforce councils. Local education representatives shall come from nominations provided by local education to employment partnerships. The 32 members shall represent the following sectors:

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