

(b) The commissioner of human services shall amend Minnesota Rules, part 9560.0102, subpart 2, to conform with paragraph (a) by repealing item C, and relettering other items and changing cross-references as necessary. This amendment must be done in the manner specified in Minnesota Statutes, section 14.388, under authority of clause (3) of that section.

(c) The commissioner of human services shall adopt rules to determine a reasonable and appropriate reimbursement limit. The commissioner may spend up to \$16,000 for each purchase of service agreement until other rules are adopted.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment. The repeal of the reimbursement limit applies to agreements entered into on or after that date.

Presented to the governor March 10, 1997

Signed by the governor March 11, 1997, 10:17 a.m.

CHAPTER 9—S.F.No. 202

An act relating to property; validating certain conveyances by religious corporations; regulating adverse claims by a government agency; clarifying the manner of service of certain notices regarding mechanics liens; requiring published notice of dispositions of certain real property in a marriage dissolution action; regulating property held in revocable trusts upon the dissolution of marriage; regulating specific devises and distributions of property under the uniform probate code; amending Minnesota Statutes 1996, sections 315.121; 508.70, by adding a subdivision; 514.06; 518.11; 524.2-402; 524.2-403; and 524.2-606; proposing coding for new law in Minnesota Statutes, chapters 501B; and 524.

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

Section 1. Minnesota Statutes 1996, section 315.121, is amended to read:

315.121 RELIGIOUS CORPORATIONS, CERTAIN CONVEYANCES VALIDATED.

All conveyances executed by any religious corporation organized under this chapter, conveying real property within this state that were recorded prior to July 1, 1984, have been of record for more than six years in the office of the county recorder or registrar of titles of the county in which the real estate conveyed is located, and the record of the conveyance, are legalized, validated, and confirmed, even though the corporate records do not disclose that the execution of the conveyance was authorized by the congregation of the religious corporation in the manner provided by law, or the record of the authorization has not been recorded in the office of the county recorder or registrar of titles of the county in which the real estate conveyed is located.

Sec. 2. [501B.90] EFFECT OF DISSOLUTION OF MARRIAGE.

Subdivision 1. REVOCATION OF CERTAIN TRUST PROVISIONS. If after execution of a trust instrument in which a sole grantor reserves a power to alter, amend,

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revoke, or terminate the provisions of the trust, the grantor's marriage is dissolved or annulled, the dissolution or annulment revokes any disposition, provision for beneficial enjoyment or appointment of property made by the trust instrument to a grantor's former spouse, any provisions conferring a general or special power of appointment on the former spouse and any appointment of the former spouse as trustee, unless the trust instrument expressly provides otherwise.

Subd. 2. **PASSING OF PROPERTY.** Property prevented from passing to a former spouse because of revocation by dissolution or annulment of marriage passes as if the former spouse died on the date of the entry of the judgment and decree dissolving or annulling the grantor's marriage and other provisions conferring some power or office on the former spouse are interpreted as if the former spouse died on the date of the entry of the judgment and decree dissolving or annulling the grantor's marriage.

Subd. 3. **REVIVAL OF REVOKED PROVISIONS.** If provisions are revoked solely by this section, they are revived by the grantor's remarriage to the former spouse. For purposes of this chapter, 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 trust instrument.

Sec. 3. Minnesota Statutes 1996, section 508.70, is amended by adding a subdivision to read:

Subd. 3. **EXCEPTION TO TEN-YEAR LIMIT; ADVERSE CLAIM STATEMENT BY GOVERNMENT AGENCY.** The provisions of subdivision 2 do not apply to an adverse claim statement made by the United States of America, this state, or any political subdivision, agency, or instrumentality of the United States of America or this state, which statement was filed prior to August 1, 1997, and was a recital or memorial on the certificate of title for the affected real property on July 31, 1997.

Sec. 4. Minnesota Statutes 1996, section 514.06, is amended to read:

514.06 TITLE OF VENDOR OR CONSENTING OWNER, SUBJECT TO.

When land is sold under an executory contract requiring the vendee to improve the same, and such contract is forfeited or surrendered after liens have attached by reason of such improvements, the title of the vendor shall be subject thereto; but the vendor shall not be personally liable if the contract was made in good faith. When improvements are made by one person upon the land of another, all persons interested therein otherwise than as bona fide prior encumbrancers or lienors shall be deemed to have authorized such improvements, in so far as to subject their interests to liens therefor. Any person who has not authorized the same may protect that person's interest from such liens by serving upon the persons doing work or otherwise contributing to such improvement within five days after knowledge thereof, written notice that the improvement is not being made at that person's instance, or by posting like notice, and keeping the same posted, in a conspicuous place on the premises. The service may be made by personal service or by certified mail to the last known address of the person doing work or otherwise contributing to the improvement. Mailed service is effective when mailed. As against a lessor no lien is given for repairs made by or at the instance of the lessee.

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Sec. 5. Minnesota Statutes 1996, section 518.11, is amended to read:

518.11 SERVICE; ALTERNATE SERVICE; PUBLICATION.

(a) Unless a proceeding is brought by both parties, copies of the summons and petition shall be served on the respondent personally.

(b) When service is made out of this state and within the United States, it may be proved by the affidavit of the person making the same. When service is made without the United States it may be proved by the affidavit of the person making the same, taken before and certified by any United States minister, charge d'affaires, commissioner, consul or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in such country, including all deputies or other representatives of such officer authorized to perform their duties; or before an officer authorized to administer an oath with the certificate of an officer of a court of record of the country wherein such affidavit is taken as to the identity and authority of the officer taking the same.

(c) If personal service cannot be made, the court may order service of the summons by alternate means. The application for alternate service must include the last known location of the respondent; the petitioner's most recent contacts with the respondent; the last known location of the respondent's employment; the names and locations of the respondent's parents, siblings, children, and other close relatives; the names and locations of other persons who are likely to know the respondent's whereabouts; and a description of efforts to locate those persons.

The court shall consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court shall order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent or, if no address so qualifies, then to the respondent's last known address.

If the petitioner seeks disposition of real estate located within the state of Minnesota, the court shall order that the summons, which shall contain the legal description of the real estate, be published in the county where the real estate is located. The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Also, the court may require the petitioner to make efforts to locate the respondent by telephone calls to appropriate persons. Service shall be deemed complete 21 days after mailing or 21 days after court-ordered publication.

Sec. 6. Minnesota Statutes 1996, section 524.2-402, is amended to read:

524.2-402 DESCENT OF HOMESTEAD.

(a) If there is a surviving spouse, the homestead, including a manufactured home which is the family residence, descends free from any testamentary or other disposition of it to which the spouse has not consented in writing or as provided by law, as follows:

(1) if there is no surviving descendant of decedent, to the spouse; or

(2) if there are surviving descendants of decedent, then to the spouse for the term of the spouse's natural life and the remainder in equal shares to the decedent's descendants by representation.

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(b) If there is no surviving spouse and the homestead has not been disposed of by will it descends as other real estate.

(c) If the homestead passes by descent or will to the spouse or decedent's descendants, it is exempt from all debts which were not valid charges on it at the time of decedent's death except that the homestead is subject to a claim filed pursuant to section 246.53 for state hospital care or 256B.15 for medical assistance benefits. If the homestead passes to a person other than a spouse or decedent's descendants, it is subject to the payment of the items mentioned in section 524.2-101. No lien or other charge against a homestead so exempted is enforceable in the probate court, but expenses of administration, funeral expenses, expenses of last illness, taxes, and debts. The claimant may seek to enforce the a lien or other charge against a homestead so exempted by an appropriate action in the district court.

(d) For purposes of this section, except as provided in section 524.2-301, the surviving spouse is deemed to consent to any testamentary or other disposition of the homestead to which the spouse has not previously consented in writing unless the spouse files in the manner provided in section 524.2-211, paragraph (f), a petition that asserts the homestead rights provided to the spouse by this section.

Sec. 7. Minnesota Statutes 1996, section 524.2-403, is amended to read:

524.2-403 EXEMPT PROPERTY.

(a) If there is a surviving spouse, then, in addition to the homestead and family allowance, the surviving spouse is entitled from the estate to:

(1) property not exceeding \$10,000 in value in excess of any security interests therein, in household furniture, furnishings, appliances, and personal effects, subject to an award of sentimental value property under section 525.152; and

(2) one automobile, if any, without regard to value.

(b) If there is no surviving spouse, the decedent's children are entitled jointly to the same property as provided in paragraph (a).

(c) If encumbered chattels are selected and the value in excess of security interests, plus that of other exempt property, is less than \$10,000, or if there is not \$10,000 worth of exempt property in the estate, the surviving spouse or children are entitled to other personal property of the estate, if any, to the extent necessary to make up the \$10,000 value.

(d) Rights to exempt property and assets needed to make up a deficiency of exempt property have priority over all claims against the estate, but the right to any assets to make up a deficiency of exempt property abates as necessary to permit earlier payment of the family allowance.

(e) The rights granted by this section are in addition to any benefit or share passing to the surviving spouse or children by the decedent's will, unless otherwise provided, by intestate succession or by way of elective share.

(f) A claim under section 246.53, 256B.15, 256D.16, or 261.04 takes precedence over any rights granted to a decedent's adult children under this section. No rights granted to a decedent's adult children under this section shall have precedence over a claim under section 246.53, 256B.15, 256D.16, 261.04, or 524.3-805, paragraph (a), clause (1), (2), or (3).

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Sec. 8. Minnesota Statutes 1996, section 524.2-606, is amended to read:

524.2-606 NONADEMPTION OF SPECIFIC DEVISES; UNPAID PROCEEDS OF SALE, CONDEMNATION, OR INSURANCE; SALE BY CONSERVATOR OR GUARDIAN.

(a) A specific devisee has a right to the specifically devised property in the testator's estate at death and:

(1) any balance of the purchase price, together with any security agreement, owing from a purchaser to the testator at death by reason of sale of the property;

(2) any amount of a condemnation award for the taking of the property unpaid at death;

(3) any proceeds unpaid at death on fire or casualty insurance on or other recovery for injury to the property; and

(4) property owned by the testator at death and acquired as a result of foreclosure, or obtained in lieu of foreclosure, of the security interest for a specifically devised obligation.

(b) If specifically devised property is sold or mortgaged by a conservator or guardian or by an agent acting within the authority of a durable power of attorney for an incapacitated principal, or if a condemnation award, insurance proceeds, or recovery for injury to the property are paid to a conservator or guardian or to an agent acting within the authority of a durable power of attorney for an incapacitated principal, the specific devisee has the right to a general pecuniary devise equal to the net sale price, the amount of the unpaid loan, the condemnation award, the insurance proceeds, or the recovery.

(c) The right of a specific devisee under paragraph (b) is reduced by any right the devisee has under paragraph (a).

(d) For the purposes of the references in paragraph (b) to a conservator or guardian or an agent acting within the authority of a durable power of attorney, paragraph (b) does not apply if after the sale, mortgage, condemnation, casualty, or recovery;

(1) in the case of a conservator or guardian, it was adjudicated that the testator's incapacity ceased and the testator survived the adjudication by one year; or

(2) in the case of an agent acting within the authority of a durable power of attorney, the testator's incapacity ceased and the testator survived for one year after the incapacity ceased.

(e) For the purposes of the references in paragraph (b) to an agent acting within the authority of a durable power of attorney for an incapacitated principal, (i) "incapacitated principal" means a principal who is an incapacitated person as defined in section 525.54, subdivision 3, and (ii) a finding of the principal's incapacity need not occur during the principal's life.

Sec. 9. [524.2-711] FUTURE INTERESTS IN "HEIRS," "HEIRS AT LAW," OR "NEXT OF KIN."

If a governing instrument calls for a future distribution to or creates a future interest in a designated individual's "heirs," "heirs at law," or "next of kin," the property passes to

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those persons, including the state of Minnesota under section 524.2-105, and in such shares as would succeed to the designated individual's intestate estate under the laws of intestate succession of the state of Minnesota if the designated individual died when the disposition is to take effect in possession or enjoyment. If the designated individual's surviving spouse is living at the time the disposition is to take effect in possession or enjoyment, the surviving spouse is an heir of the designated individual for the purposes of this section, whether or not the surviving spouse is remarried.

Sec. 10. **TRANSITION PROVISION.**

Section 1 does not affect any action or proceeding pending on its effective date or that is commenced before February 1, 1998, involving the validity of a conveyance recorded or filed after June 30, 1984, if a notice of the pendency of the action or proceeding is recorded or filed before February 1, 1998, in the office of the county recorder or registrar of titles in which the real property affected by the action or proceeding is located.

Sec. 11. **APPLICATION.**

Section 2 applies to all trusts, whenever created, in which a sole grantor has a power to alter, amend, revoke, or terminate the provisions of the trust on the later of (1) the effective date of this section, and (2) the date of the entry of the judgment and decree dissolving or annulling the grantor's marriage.

Presented to the governor March 13, 1997

Signed by the governor March 13, 1997, 10:45 a.m.

CHAPTER 10—S.F.No. 315

An act relating to business organizations; making technical changes applicable to business corporations and limited liability companies; permitting mergers of domestic corporations and limited liability companies; regulating filings with the secretary of state; amending Minnesota Statutes 1996, sections 302A.011, subdivisions 11, 30, 38, 39, 50, 53, and by adding subdivisions; 302A.111, subdivision 4; 302A.115, subdivision 1; 302A.171, subdivision 2; 302A.223, subdivision 5; 302A.401, subdivision 3; 302A.402, subdivision 3; 302A.405, subdivision 1; 302A.409, subdivision 4; 302A.413, by adding a subdivision; 302A.417, subdivision 7; 302A.423, subdivision 2; 302A.429, subdivision 2; 302A.437, subdivision 2; 302A.445, subdivision 1; 302A.449, subdivision 1; 302A.457, subdivision 2; 302A.461, subdivision 1; 302A.471, subdivision 3; 302A.473, subdivision 3; 302A.521, subdivisions 4 and 9; 302A.601, subdivision 4; 302A.611; 302A.613, subdivisions 1 and 2; 302A.615; 302A.621, subdivision 6; 302A.631; 302A.641, subdivision 2; 302A.651; 302A.671, subdivision 3; 302A.673, subdivision 3; 302A.675; 308A.005, by adding subdivisions; 317A.011, subdivisions 8 and 19; 322A.01; 322B.03, subdivisions 18 and 45; 322B.11; 322B.115, subdivisions 1 and 4; 322B.12, subdivision 1; 322B.20, subdivision 2; 322B.313, subdivision 2; 322B.33, by adding a subdivision; 322B.346, subdivision 2; 322B.356, subdivision 1; 322B.363, subdivision 1; 322B.37, subdivisions 1 and 3; 322B.383, subdivision 1, and by adding a subdivision; 322B.386, subdivision 3; 322B.699, subdivision 9; 322B.70, subdivisions 1 and 2; 322B.72, subdivisions 2 and 3; 322B.74, subdivisions 1 and 2; 322B.80, subdivision 1; 323.02, by adding subdivi-

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