

(6) develop guidelines for local agency program administration and consumer information; and

(7) apply for a federal waiver or take any other action necessary to maximize federal funding for the program by June 1, 1999.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 to 3 are effective the day following final enactment.

Presented to the governor March 11, 1999

Signed by the governor March 15, 1999, 2:34 p.m.

**CHAPTER 11—S.F.No. 343**

*An act relating to real property; making changes in provisions about certificates of title and the Common Interest Ownership Act; making miscellaneous changes to alter real property provisions; amending Minnesota Statutes 1998, sections 40A.10, subdivisions 1 and 3; 40A.11, subdivision 4; 47.20, subdivision 2; 51A.02, subdivision 29; 60C.09, subdivision 1; 83.20, subdivisions 11 and 14; 103F.612, subdivisions 2 and 4; 103F.613, subdivision 3; 103I.235, subdivision 1; 238.22, subdivision 3; 273.124, subdivision 2; 297H.01, subdivision 8; 327C.095, subdivision 5; 357.18, subdivision 1; 359.02; 386.31; 389.09; 428A.11, subdivisions 4 and 6; 462C.02, subdivisions 4 and 5; 462C.05, subdivision 1; 473H.02, subdivision 6; 473H.05, subdivision 1; 473H.06, subdivisions 1 and 2; 473H.08, subdivision 4; 500.20, subdivision 2a; 505.08, subdivision 3; 507.421; 508.14; 508.24, subdivision 2; 508.25; 508.35; 508.36; 508.38; 508.40; 508.421, subdivision 2; 508.47, subdivision 4; 508.49; 508.51, subdivision 1; 508.52; 508.55; 508.56; 508.57; 508.58; 508.59; 508.61, subdivisions 2 and 3; 508.67; 508.68; 508.71, subdivisions 2, 4, 5, 6, and by adding a subdivision; 508.76; 508.82, subdivision 1; 508A.10; 508A.11, subdivision 3; 508A.22, subdivisions 2 and 3; 508A.25; 508A.35; 508A.38; 508A.40; 508A.421, subdivision 2; 508A.47, subdivision 4; 508A.49; 508A.51, subdivision 1; 508A.52; 508A.55; 508A.56; 508A.57; 508A.58; 508A.59; 508A.61, subdivisions 2 and 3; 508A.71, subdivisions 2, 3, 5, 6, and by adding a subdivision; 508A.72; 508A.76; 508A.82, subdivision 1; 508A.85, subdivisions 3 and 4; 515B.1-102; 515B.1-103; 515B.1-116; 515B.2-101; 515B.2-104; 515B.2-105; 515B.2-108; 515B.2-109; 515B.2-110; 515B.2-113; 515B.2-118; 515B.2-119; 515B.2-121; 515B.2-122; 515B.3-103; 515B.3-105; 515B.3-106; 515B.3-110; 515B.3-113; 515B.3-115; 515B.3-116; 515B.3-121; 515B.4-101; 515B.4-102; 515B.4-106; 515B.4-107; 515B.4-108; 515B.4-111; 515B.4-115; 524.2-201; 559.21, subdivision 2a; and 582.32, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 386; and 515B; repealing Minnesota Statutes 1998, sections 473H.02, subdivision 11; 473H.05, subdivision 3; 508.405; 508.421, subdivision 1; 508.44; 508.45; 508.51, subdivision 2; 508.835; 508A.421, subdivision 1; 508A.44; 508A.45; 508A.51, subdivision 2; and 508A.835.*

New language is indicated by underline, deletions by ~~strikeout~~.

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

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ARTICLE 1

Section 1. Minnesota Statutes 1998, section 40A.10, subdivision 1, is amended to read:

Subdivision 1. **CONTENTS.** An eligible person may apply to the county in which the land is located for the creation of an agricultural preserve on forms provided by the commissioner. In case a preserve is located in more than one county, the application must be submitted to the county in which the majority of the land is located. The application shall be executed and acknowledged in the manner required by law to execute and acknowledge a deed and must contain at least the following information and other information the commissioner requires:

(a) Legal description of the area to be designated and parcel identification numbers where designated by the county auditor;

(b) Name and address of the owner;

(c) ~~A witnessed signature of statement by the owner~~ covenanting that the land will be kept in exclusive agricultural use and will be used in accordance with the provisions of this chapter that exist on the date of application; and providing

~~(d) A statement that the restrictive covenant will be binding on the owner or the owner's successor or assignee, and will run with the land.~~

~~In the case of registered property, the owner shall submit the owner's duplicate certificate of title along with the application.~~

Sec. 2. Minnesota Statutes 1998, section 40A.10, subdivision 3, is amended to read:

Subd. 3. **RECORDING.** Within five days of the date of application, the county shall forward the application to the county recorder, ~~together with the owner's duplicate certificate of title in the case of registered property for recording, or to the registrar of titles for filing if the land is registered.~~ The county recorder shall record the application containing the restrictive covenant and return it to the applicant. In the case of registered property, the recorder ~~If the land is registered, the registrar of titles shall memorialize the application containing the restrictive covenant upon the certificate of title and the owner's duplicate certificate of title. The recorder or registrar of titles shall notify the county that the covenant application has been recorded or memorialized.~~

Sec. 3. Minnesota Statutes 1998, section 40A.11, subdivision 4, is amended to read:

Subd. 4. **NOTICE AND RECORDING; TERMINATION.** When the county receives notice under subdivision 2 or serves notice under subdivision 3, the county shall forward the original notice to the county recorder for recording, ~~or to the registrar of titles if the land is registered,~~ and shall notify the regional development commission, the commissioner, and the county soil and water conservation district of the date of expiration. Designation as an agricultural preserve and the benefits and limitations contained in this

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chapter and the restrictive covenant filed with the application cease on the date of expiration. ~~In the case of registered property, the county recorder~~ If the land is registered, the registrar of titles shall cancel the memorial of the application containing the restrictive covenant upon the certificate of title and the owner's duplicate certificate of title on the effective date of the expiration.

Sec. 4. Minnesota Statutes 1998, section 103F.612, subdivision 2, is amended to read:

Subd. 2. **APPLICATION.** (a) A wetland owner may apply to the county where a wetland is located for designation of a wetland preservation area in a high priority wetland area identified in a comprehensive local water plan, as defined in section 103B.3363, subdivision 3, and located within a high priority wetland region designated by the board of water and soil resources, if the county chooses to accept wetland preservation area applications. The application must be made on forms provided by the board. If a wetland is located in more than one county, the application must be submitted to the county where the majority of the wetland is located.

(b) The application shall be executed and acknowledged in the manner required by law to execute and acknowledge a deed and must contain at least the following information and other information the board of soil and water resources requires:

(1) legal description of the area to be approved, which must include an upland strip at least 16-1/2 feet in width around the perimeter of wetlands within the area and may include total upland area of up to four acres for each acre of wetland;

(2) parcel identification numbers where designated by the county auditor;

(3) name and address of the owner;

(4) a witnessed signature of statement by the owner covenanting that the land will be preserved as a wetland and will only be used in accordance with conditions prescribed by the board of water and soil resources; and providing

(5) a statement that the restrictive covenant will be binding on the owner and the owner's successors or assigns, and will run with the land.

(c) The upland strip required in paragraph (b), clause (1), must be planted with permanent vegetation other than a noxious weed.

~~(d) For registered property, the owner shall submit the owner's duplicate certificate of title with the application.~~

Sec. 5. Minnesota Statutes 1998, section 103F.612, subdivision 4, is amended to read:

Subd. 4. **RECORDING.** Within five days of the date of application, the county shall forward the application to the county recorder, ~~with the owner's duplicate certificate of title in the case of registered property for recording or to the registrar of titles for filing if the land is registered.~~ The county recorder shall record the application containing the restrictive covenant and return it to the applicant. In the case of registered property, the recorder If the land is registered, the registrar of titles shall memorialize the application containing the restrictive covenant upon the certificate of title and the owner's duplicate certificate of title. The recorder or registrar of titles shall notify the county that the ~~covenant~~ application has been recorded or memorialized.

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Sec. 6. Minnesota Statutes 1998, section 103F.613, subdivision 3, is amended to read:

Subd. 3. **NOTICE AND RECORDING; TERMINATION.** When the county receives notice under subdivision 2, the county shall forward the original notice to the county recorder for recording or to the registrar of titles for filing if the land is registered and shall notify the regional development commission, where applicable, the board of water and soil resources, and the county soil and water conservation district of the date of expiration. The benefits and limitations of the wetland preservation area and the restrictive covenant filed with the application cease on the date of expiration. ~~For registered property, the county recorder~~ If the land is registered, the registrar of titles shall cancel the memorial of the application containing the restrictive covenant upon the certificate of title and the owner's duplicate certificate of title on the effective date of the expiration.

Sec. 7. **[386.071] DOCUMENTS MISFILED.**

The county recorder may reasonably rely on the affirmative representation of the party presenting instruments for filing as to whether the land described in the instruments or any part of it is registered or unregistered. A party who requests that misfiled instruments be refiled with the registrar is responsible for paying any additional fees required to properly file any instrument misfiled because of an incorrect representation and, if applicable, to enter a new certificate of title.

Sec. 8. Minnesota Statutes 1998, section 473H.02, subdivision 6, is amended to read:

Subd. 6. **COVENANT AGREEMENT.** ~~"Covenant agreement" means a restrictive covenant initiated by the owner and evidenced by an agreement contained in the application provided for in section 473H.05 whereby the owner places the limitations on specified land and receives the protections and benefits contained in sections 473H.02 to 473H.17.~~

Sec. 9. Minnesota Statutes 1998, section 473H.05, subdivision 1, is amended to read:

Subdivision 1. **BEFORE MARCH 1 FOR NEXT YEAR'S TAXES.** An owner or owners of certified long term agricultural land may apply to the authority with jurisdiction over the land on forms provided by the commissioner of agriculture for the creation of an agricultural preserve at any time. ~~If the land to be placed in a preserve is registered property, the owner shall submit the owner's duplicate certificate of title together with the application.~~ Land for which application is received prior to March 1 of any year shall be assessed pursuant to section 473H.10 for taxes payable in the following year. Land for which application is received on or after March 1 of any year shall be assessed pursuant to section 473H.10 in the following year. The application shall be executed and acknowledged in the manner required by law to execute and acknowledge a deed and shall contain at least the following information and such other information as the commissioner deems necessary:

(a) Legal description of the area proposed to be designated and parcel identification numbers if so designated by the county auditor and the certificate of title number if the land is registered;

(b) Name and address of owner;

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(c) An affidavit by the authority evidencing that the land is certified long term agricultural land at the date of application;

(d) A witnessed ~~signature of statement by~~ the owner covenanting that the land shall be kept in agricultural use, and shall be used in accordance with the provisions of sections 473H.02 to 473H.17 which exist on the date of application; and providing

(e) ~~A statement~~ that the restrictive covenant shall be binding on the owner or the owner's successor or assignee, and shall run with the land.

Sec. 10. Minnesota Statutes 1998, section 473H.06, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION.** Upon receipt of an application, the authority shall determine if all material required in section 473H.05 has been submitted and, if so, shall determine that the application is complete. When used in this chapter, the term "date of application" means the date the application is determined complete by the authority. Within five days of the date of application, the authority shall forward the completed and signed application to the county recorder, ~~together with the owner's duplicate certificate of title in the case of registered property,~~ and copies to the county auditor, the county assessor, the metropolitan council, and the county soil and water conservation district.

Sec. 11. Minnesota Statutes 1998, section 473H.06, subdivision 2, is amended to read:

Subd. 2. **RECORDING; MEMORIALIZATION.** The county recorder shall record the application containing the restrictive covenant and return it to the applicant. If the property land is registered property, the recorder registrar of titles shall memorialize the application containing the restrictive covenant upon presentation of the owner's duplicate the certificate of title. The authority shall be notified by the recorder or registrar of titles that the covenant application has been recorded or memorialized.

Sec. 12. Minnesota Statutes 1998, section 473H.08, subdivision 4, is amended to read:

Subd. 4. **NOTICE TO OTHERS.** Upon receipt of the notice provided in subdivision 2, or upon notice served by the authority as provided in subdivision 3, the authority shall forward the original notice to the county recorder for recording, or to the registrar of titles if the land is registered, and shall notify the county auditor, county assessor, the metropolitan council, and the county soil and water conservation district of the date of expiration. Designation as an agricultural preserve and all benefits and limitations accruing through sections 473H.02 to 473H.17 for the preserve shall cease on the date of expiration. The restrictive covenant filed with contained in the application shall terminate on the date of expiration.

Sec. 13. Minnesota Statutes 1998, section 508.14, is amended to read:

**508.14 SURVEY IN CERTAIN COUNTIES.**

In any county of this state having more than 200,000 inhabitants, the county surveyor or thereof shall, at the request of the examiner of titles for such county, make a survey of the plat described in any application for registration under this chapter, and file with the court administrator of the district court of such county a plat of such land, duly certified,

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showing the dimensions of the land, the location of all structures, fences, and other improvements thereon and such other facts as may be required by the examiner. The surveyor shall also at the request of the registrar of titles of such county, make a survey of any registered land designated by the registrar and file with such registrar a plat of such land, duly certified showing its dimensions and such other facts as the registrar may require. Such plat shall be numbered and entered as a memorial on the original owner's duplicate certificate of title of such land and transferred with each subsequent certificate of title affecting such land. In any county in which the county surveyor receives fees in lieu of a salary, the county surveyor shall be paid such compensation for services as the county board may determine; in all other counties, the county surveyor shall receive no other compensation than the salary paid for other county work.

Sec. 14. Minnesota Statutes 1998, section 508.24, subdivision 2, is amended to read:

Subd. 2. **PETITION; NONMETROPOLITAN COUNTIES.** The registered owner of land in counties not containing a city of the first class may apply by verified petition to the district court of the county wherein the land is situated for its withdrawal from registration. The application shall be heard by the district court on not less than 20 days' written notice to all persons appearing of record or known to the petitioner to have or claim an interest in the property. The notice shall be served in the manner provided by law for the service of a summons in a civil action in the district court unless otherwise specified by the court. At the hearing any person interested in any manner in the land or who may be affected by its withdrawal from registration, may appear and be heard in favor of or in opposition to the application. After hearing the court may order that the land be withdrawn from registration, subject to encumbrances, liens, and other incidents of title then existing, and if so ordered shall require that a certified copy of the order, a certified copy of the original decree of registration, and certified copies of all undischarged instruments memorialized on the certificate of title, be recorded in the office of the county recorder at the expense of the petitioner. In its order the court shall reconcile any differences in description of the land as originally registered and as described in the last certificate of title. Upon the recording of the instruments and upon filing a certified copy of the order in the office of the registrar of titles, and surrender to the registrar of the duplicates of the last certificate of title, the land shall be withdrawn from registration and become unregistered property.

Sec. 15. Minnesota Statutes 1998, section 508.25, is amended to read:

#### 508.25 RIGHTS OF PERSON HOLDING CERTIFICATE OF TITLE.

Every person receiving a certificate of title pursuant to a decree of registration and every subsequent purchaser of registered land who receives a certificate of title in good faith and for a valuable consideration shall hold it free from all encumbrances and adverse claims, excepting only the estates, mortgages, liens, charges, and interests as may be noted in the last certificate of title in the office of the registrar, and also excepting any of the following rights or encumbrances subsisting against it, if any:

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

(2) the lien of any real property tax or special assessment for which the land has not been sold at the date of the certificate of title;

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- (3) any lease for a period not exceeding three years when there is actual occupation of the premises thereunder;
- (4) all rights in public highways upon the land;
- (5) the right of appeal, or right to appear and contest the application, as is allowed by this chapter;
- (6) the rights of any person in possession under deed or contract for deed from the owner of the certificate of title; and
- (7) any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.

No existing or future lien for state taxes arising under the laws of this state for the nonpayment of any amounts due under chapter 268 or any tax administered by the commissioner of revenue may encumber title to lands registered under this chapter unless filed under the terms of this chapter.

Sec. 16. Minnesota Statutes 1998, section 508.35, is amended to read:

**508.35 FORM OF CERTIFICATE.**

The certificate of title shall contain the name and residence of the owner, a description of the land, and of the estate of the owner therein, and shall by memorial contain a description of all encumbrances, liens, and interests in which the estate of the owner is subject. It shall state whether the owner is 18 years of age or older and, if under any legal incapacity, the nature of it. It shall also state whether or not the owner is married and, if married, the name of the spouse. In case the land is held in trust or subject to any condition or limitation, it shall state the nature and character of it. It shall be substantially in the following form:

**CERTIFICATE OF TITLE**

First certificate of title, pursuant to the order of the district court, ..... judicial district, county of ....., and state of Minnesota, date....., .....

**REGISTRATION**

State of Minnesota )  
 ) ss.  
 County of ..... )

This is to certify that ....., residing at ....., in the ..... of ....., county of ....., and state of ....., is now the owner of an estate, ~~to-wit,~~ ..... of and in the following described land situated in the county of ..... and state of Minnesota, ~~to-wit,~~ .....

Subject to the encumbrances, liens, and interest noted by the memorial underwritten or endorsed hereon; and subject to the following rights or encumbrances subsisting, as provided in Laws 1905, chapter 305, section 24, namely:

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

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

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

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

(5) Such right of appeal or right to appear and contest the application as is allowed by law;

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

(7) Any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.

That the said ..... (is/is not) of the age of 18 years or older, is under no legal incapacity except ..... and is (single/married to .....), who (is/is not) of the age of 18 years or older and is under no legal incapacity except .....

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

.....

Registrar of Titles, in and for the county of

..... and State of Minnesota.

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

Sec. 17. Minnesota Statutes 1998, section 508.36, is amended to read:

**508.36 CERTIFICATES AND COPIES AS EVIDENCE.**

The original certificate of title in the register of titles, any copy of it duly certified by the registrar, or by a deputy, and authenticated by the registrar's seal, and likewise the owner's duplicate certificate of title shall be received in evidence in all the courts of this state and be conclusive evidence of all matters and things contained in it. ~~In case of variance between the owner's duplicate certificate and the original certificate of title, the original certificate shall prevail.~~ Deeds, mortgages, leases, or other conveyances of real estate, and all instruments in any manner affecting the title to registered land, together with any notations, endorsements, or memorials upon the same made by the registrar of titles, as required by law, heretofore or hereafter filed with the registrar, shall be received in evidence in all the courts of this state, without further or other proof, and be prima facie evidence of the contents of it. Duly authenticated copies of these instruments, or any of them, may likewise be received in evidence in any court in this state with like force and effect as the original instruments.

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Sec. 18. Minnesota Statutes 1998, section 508.38, is amended to read:

**508.38 FORMS OF RECORDS ADOPTED.**

~~Every instrument~~ Instruments affecting the title to land, filed with the registrar, shall be numbered by the registrar consecutively, to the extent practicable and the registrar shall endorse upon the same each instrument over the registrar's official signature, OFFICE OF THE REGISTRAR OF TITLES, ... COUNTY, MINNESOTA, CERTIFIED FILED ON, together with the date, hour, and minute when the same instrument is filed, the document number thereof, and a reference to its the proper certificate of title. ~~Every such instrument shall be retained by the registrar and regarded as registered from the time of filing except that such Instruments may shall be copied or reproduced as provided by section 15.17, as amended, and the copies or reproductions thereof substituted for the originals with the equal force and effect of the same, which originals may be then destroyed as provided by said section 15.17. Instruments shall then be returned in person or by mail to the party who presented the instruments for filing or to any other party to whom the registrar is directed to deliver the instruments. When the memorial of any instrument is made upon any certificate, the date, number, and time of filing thereof shall likewise also be endorsed upon such the certificate. All records and papers relating to registered land in the office of the registrar, shall be open to the inspection of the public at such times and under such conditions as the court may prescribe. Duplicates of all instruments, voluntary or involuntary, filed and registered with the registrar, may be presented with the originals, and shall thereupon be endorsed with the file number, and other memoranda on the originals, and may be attested and sealed by the registrar, and returned to the person presenting the same. The registrar shall furnish certified copies of the instruments filed and registered in the registrar's office, upon payment of a fee as provided in section 357.18. The court shall adopt general forms of memorials and notations to be used by the registrars in registering the common forms of conveyance and other instruments.~~

Sec. 19. Minnesota Statutes 1998, section 508.40, is amended to read:

**508.40 OWNER'S DUPLICATE RECEIPT COPY OF CERTIFICATE OF TITLE TO BE FURNISHED TO OWNER.**

~~At the time the original~~ When a certificate of title is entered, the registrar shall make a duplicate thereof, endorsing across the face of such duplicate the words "Owner's Duplicate Certificate" copy of it and deliver the same copy to the owner or an authorized attorney agent. The registrar shall, in every case, when it is practicable so to do, take from such owner a receipt for such duplicate certificate, which shall be signed by the owner in person. In the case of multiple owners the receipt may be executed by any one of such owners. Such receipt, when signed and delivered in the office of the registrar, shall be witnessed by the registrar or the registrar's deputy. If such receipt is signed elsewhere, it shall be acknowledged in the same manner as a deed. Such receipt shall be prima facie evidence of the genuineness of such signature. The copy need not be presented or surrendered to permit an instrument, voluntary or otherwise, to be filed or a new certificate of title to be entered, or a memorial to be made on a certificate of title.

Sec. 20. Minnesota Statutes 1998, section 508.421, subdivision 2, is amended to read:

Subd. 2. **MULTIPLE PARCELS OR INTERESTS.** The owner or owners of registered land holding (1) one certificate of title for two or more parcels of land or (2) one

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certificate for undivided interests in one or more parcels of land may ~~surrender the owner's duplicate certificate of title for the land and thereupon request the registrar may to~~ issue separate certificates of title to each owner or for each parcel or any combination thereof as may be desired consistent with their registered interests, provided a registered land survey is not required by section 508.47. When the registrar of titles has issued more than one certificate of title to one or more owners for one or more parcels of land, the owner or owners may ~~surrender the owner's duplicate certificates of title for the land and thereupon request~~ the registrar may to issue a single certificate of title for all of the land to the owner or owners of the land, or the registrar may issue two or more certificates to the owner or owners of the land or for each parcel or any combination thereof as may be desired consistent with their registered interests, provided a registered land survey is not required by section 508.47.

Sec. 21. Minnesota Statutes 1998, section 508.47, subdivision 4, is amended to read:

Subd. 4. **SURVEY; REQUISITES; FILING; COPIES.** The registered land survey shall correctly show the legal description of the parcel of unplatted land represented by said registered land survey and the outside measurements of the parcel of unplatted land and of all tracts delineated therein, the direction of all lines of said tracts to be shown by angles or bearings or other relationship to the outside lines of said registered land survey, and the surveyor shall place monuments in the ground at appropriate corners, and all tracts shall be lettered consecutively beginning with the letter "A." A registered land survey which delineates multilevel tracts shall include a map showing the elevation view of the tracts with their upper and lower boundaries defined by elevations referenced to National Geodetic Vertical Datum, 1929 adjustment. None of said tracts or parts thereof may be dedicated to the public by said registered land survey. Except in counties having microfilming capabilities, a reproduction copy of the registered land survey shall be delivered to the county auditor. The registered land survey shall be on paper, mounted on cloth, shall be a black on white drawing, the scale to be not smaller than one inch equals 200 feet, and shall be certified to be a correct representation of said parcel of unplatted land by a registered surveyor. The mounted drawing shall be exactly either 17 inches by 14 inches or at the registrar's request 20 inches by 30 inches and not less than 2-1/2 inches of the 14 inches or the 20 inches shall be blank for binding purposes, and such survey shall be filed in triplicate with the registrar of titles. Before filing, however, any such survey shall be approved in the manner required for the approval of subdivision plats, which approval shall be endorsed ~~thereon~~ on it or attached ~~thereto~~ to it.

At the time of filing, a certificate from the treasurer that current taxes have been paid must be presented before the survey is accepted by the registrar for filing.

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

The registrar shall duly certify and furnish to any person a copy of said registered land survey, which shall be admissible in evidence.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 22. Minnesota Statutes 1998, section 508.49, is amended to read:

**508.49 INTEREST LESS THAN FEE; NOTICED BY MEMORIAL.**

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

Sec. 23. Minnesota Statutes 1998, section 508.51, subdivision 1, is amended to read:

Subdivision 1. **IF VOLUNTARY INSTRUMENT; EXCEPTION: COURT ORDER.** Except as provided in subdivision 2, no new certificate of title shall be entered or issued, and no memorial shall be made upon any certificate of title in pursuance of any deed or other voluntary instrument made by the registered owner or the registered owner's attorney-in-fact, unless the owner's duplicate is presented therewith, except upon the order of the court. When such order is made, a memorial thereof shall be entered, or a new certificate issued as directed thereby. The registrar shall require that the owner's duplicate be presented only when an instrument is submitted for filing that is executed by the registered owner or the registered owner's attorney-in-fact. When any voluntary instrument made by the registered owner or the registered owner's attorney-in-fact is presented for registration the production of the owner's duplicate certificate shall authorize the registrar to shall enter a new certificate or to make a memorial of registration in accordance with such instrument, and the new certificate of title or memorial shall be binding upon the registered owner and upon all persons claiming under the registered owner in favor of every purchaser for value and in good faith. In all cases of registration which are procured by fraud, the owner may pursue all legal and equitable remedies against the parties to such fraud, without prejudice to the rights of any innocent holder for value of a certificate of title.

Sec. 24. Minnesota Statutes 1998, section 508.52, is amended to read:

**508.52 CONVEYANCE; CANCELLATION OF OLD AND ISSUANCE OF NEW CERTIFICATE CANCELED; NEW ISSUED.**

An owner of registered land who desires to convey the land, or a portion thereof, in fee, shall execute a deed of conveyance, and file the deed, together with the owner's duplicate certificate, with the registrar. The registrar shall require an affidavit by the grantee, or some person in the grantee's behalf, which affidavit shall set forth the name and residence of the grantee, whether the grantee is 18 years of age or older, and whether the grantee is or is not under legal incapacity, whether or not married, and, if married, the name of the spouse. The deed of conveyance shall be filed and endorsed with the number and place of registration of the owner's certificate of title. Before canceling the outstanding certificate of title the registrar shall show by memorial thereon the registration of the deed on the basis of which it is canceled. The encumbrances, claims, or interests adverse to the title of the registered owner shall be stated upon the new certificate, except so far as they may be simultaneously released or discharged. The owner's duplicate certificate and the original certificate of title shall be marked "Canceled" by the registrar, who shall enter in the register a new certificate of title to the grantee, and prepare and deliver to the

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grantee a new owner's duplicate certificate and prepare and deliver to the grantee a copy of the new certificate of title. If a deed in fee is for a portion of the land described in a certificate of title, the memorial of the deed entered by the registrar shall include the legal description contained in the deed and the registrar shall enter a new certificate of title to the grantee for the portion of the land conveyed and, except as otherwise provided in this section, issue a residue certificate of title to the grantor for the portion of the land not conveyed. The registrar shall prepare and deliver to each of the parties a new owner's duplicate certificate for copy of their respective certificates of title. In lieu of canceling the grantor's certificate of title and issuing a residue certificate and owner's duplicate certificate to the grantor for the portion of the land not conveyed, the registrar may if the grantor's deed does not divide a parcel of unplatted land, and in the absence of a request to the contrary by the registered owner, mark by the land description on both the owner's duplicate certificate of title and the original certificate of title "Part of land conveyed, see memorials". The fee for a residue certificate of title shall be paid to the registrar only when the grantor's certificate of title is canceled after the conveyance by the grantor of a portion of the land described in the grantor's certificate of title. When two or more successive conveyances of the same property are filed for registration on the same day the registrar may enter a certificate in favor of the grantee or grantees in the last of the successive conveyances, and the memorial of the previous deed or deeds entered on the prior certificate of title shall have the same force and effect as though the prior certificate of title had been entered in favor of the grantee or grantees in the earlier deed or deeds in the successive conveyances. The fees for the registration of the earlier deed or deeds shall be the same as the fees prescribed for the entry of memorials. The registrar of titles, with the consent of the transferee, may mark "See memorials for new owner(s)" by the names of the registered owners on both the original certificate of title and the owner's duplicate certificate of title and also add to the memorial of the transferring conveyance a statement that the memorial shall serve in lieu of a new certificate of title in favor of the grantee or grantees therein noted and may refrain from canceling the certificate of title until the time it is canceled by a subsequent transfer, and the memorial showing such transfer of title shall have the same effect as the entry of a new certificate of title for the land described in the certificate of title; the fee for the registration of a conveyance without cancellation of the certificate of title shall be the same as the fee prescribed for the entry of a memorial.

Sec. 25. Minnesota Statutes 1998, section 508.55, is amended to read:

**508.55 REGISTRATION OF MORTGAGE; MEMORIAL ENTERED ON CERTIFICATE OF TITLE.**

The registration of a mortgage made by the registered owner or, the registered owner's attorney-in-fact, or by a party having an interest registered on the certificate of title, other than the registered owner or the registered owner's attorney-in-fact, shall be made in the following manner: The owner's duplicate certificate mortgage deed or other instrument to be registered shall be presented to the registrar, together with the mortgage deed, or other instrument to be registered, and the registrar shall enter upon the original certificate of title and also upon the owner's duplicate certificate a memorial of the purport of the instrument registered, the exact time of filing, and its file number. The registrar shall also note upon the registered instrument the time of filing and a reference to the volume and page where it is registered. The registration of a mortgage made by a party having an interest registered on the certificate of title, other than the registered owner or the regis-

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tered owner's attorney-in-fact, must be made in the same manner, except that the owner's duplicate certificate need not be presented to the registrar.

Sec. 26. Minnesota Statutes 1998, section 508.56, is amended to read:

**508.56 ASSIGNMENT AND DISCHARGE OF MORTGAGE.**

When a mortgage is assigned, extended, or otherwise dealt with, a memorial of the instrument shall be made upon the ~~original~~ certificate of title. In case only a part of the mortgage upon the land is intended to be released or discharged a memorial of such partial release shall be entered.

Sec. 27. Minnesota Statutes 1998, section 508.57, is amended to read:

**508.57 FORECLOSURE; NOTICE.**

Mortgages upon registered land may be foreclosed in the same manner as mortgages upon unregistered land. Where the mortgage is upon registered land it shall be sufficient to authorize the foreclosure thereof by advertisement, if such mortgage and all assignments thereof shall have been registered, and a memorial thereof duly entered upon the certificate of title. When a mortgage upon registered land is foreclosed by advertisement, the notice of foreclosure shall state the date of the mortgage, when and where registered, and the fact of registration. All laws relating to the foreclosure of mortgages upon unregistered land shall apply to mortgages upon registered land, or any estate or interest therein, except as herein provided, and except that a notice of the pendency of any suit or proceeding to enforce or foreclose the mortgage or other charge upon the land shall be filed with the registrar, and a memorial thereof entered on the ~~register~~ certificate of title before the first date of publication of the foreclosure notice but not sooner than six months before the first date of publication. A notice so filed and registered shall be notice to the registrar and to all persons thereafter dealing with the land or any part thereof and shall satisfy the requirements of section 580.032, subdivision 3, with respect to registered land. In all such foreclosures all certificates and affidavits permitted or required by law to be recorded with the county recorder shall be filed with and registered by the registrar.

Sec. 28. Minnesota Statutes 1998, section 508.58, is amended to read:

**508.58 REGISTRATION AFTER FORECLOSURE; NEW CERTIFICATE.**

Subdivision 1. **COURT ORDER.** Any person who has, by an action or other proceeding to enforce or foreclose a mortgage, lien, or other charge upon registered land, become the owner in fee of the land, or any part thereof, may have the title registered. Except as provided in subdivision 2, the owner shall apply by duly verified petition to the court for a new certificate of title to such land, and the court shall thereupon, after due notice to all parties in interest and upon such hearing as the court may direct, make an order for the issuance of a new certificate of title to the person entitled thereto, and the registrar shall thereupon enter a new certificate of title to the land, or of the part thereof to which the petitioner is entitled, and ~~issue an owner's duplicate as in the case of a voluntary conveyance.~~

Subd. 2. **EXAMINER OF TITLES DIRECTIVE.** Any person who has become the owner in fee of registered land, or any part of the land, pursuant to a mortgage foreclosure by action under chapter 581 is entitled to a new certificate of title for the land described in the sheriff's certificate of sale or so much of the land as may be described in the

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certificate of title, after the redemption period expires. The registrar shall enter the new certificate of title ~~and issue a new owner's duplicate certificate~~ only pursuant to the court order provided in subdivision 1 or upon the written directive of the examiner of titles as to the legal sufficiency of the mortgage foreclosure proceeding. The directive of the examiner of titles also must specify the instruments the registrar shall omit from the new certificate of title by virtue of the foreclosure.

At the request of a registered owner or other person in interest, the examiner of titles by a written directive may direct the registrar of titles to show by memorial on a the certificate of title that a contract for the conveyance of a time share interest, as defined in section 515B.1-103(32), has been terminated in accordance with chapter 559. The directive also must specify the instruments the registrar shall omit from the next certificate of title because of the cancellation.

Sec. 29. Minnesota Statutes 1998, section 508.59, is amended to read:

**508.59 REGISTRATION OF JUDGMENT OR FINAL DECREE.**

A judgment or decree affecting registered land shall be registered upon the presentation of a certified copy thereof to the registrar, who shall enter a memorial thereof upon the ~~original~~ certificate of title ~~and upon the owner's duplicate, if practicable so to do.~~ When the registered owner of such land is by such judgment or decree divested of an estate in fee therein, or of any part thereof, the prevailing party shall be entitled to a new certificate of title for the land, or so much thereof as may be described in the judgment and decree, and the registrar shall enter such new certificate of title ~~and issue a new owner's duplicate certificate~~ as in the case of a voluntary conveyance. No such new certificate shall be entered except upon the written certification of the examiner of titles as to the legal sufficiency of the documents presented for filing for the purpose of issuance of a new certificate or upon the order of the district court directing the issuance thereof.

Sec. 30. Minnesota Statutes 1998, section 508.61, subdivision 2, is amended to read:

Subd. 2. **NEW TRUSTEE.** When a new trustee of registered land is appointed a new certificate of title shall be entered in the new trustee's name upon presentation to the registrar of a certified copy of the decree or other instrument appointing the new trustee ~~and the surrender of the owner's duplicate certificate.~~

Sec. 31. Minnesota Statutes 1998, section 508.61, subdivision 3, is amended to read:

Subd. 3. **VOLUNTARY DISSOLUTION.** Where a corporate owner did adopt a resolution for voluntary dissolution pursuant to chapter 301, the registrar of titles shall enter a new certificate of title in the name of the trustee in dissolution upon ~~the surrender of the owner's duplicate certificate~~ and the presentation of a certified copy of the certificate setting forth the adoption of the resolution together with the certificate of the secretary of state that said certificate of dissolution has been filed for record in the secretary's office.

Sec. 32. Minnesota Statutes 1998, section 508.67, is amended to read:

**508.67 ACQUIRING TITLE BY ACTION; NEW CERTIFICATE.**

Subdivision 1. **COURT ORDER.** Upon the expiration of the time allowed by law for redemption of registered land, after it has been set off, or sold on execution, or taken or

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sold for the enforcement of any lien, or charge of any nature, the person who claims under such execution, or under any certificate, deed, or other instrument made in the course of proceedings to enforce such execution or lien, may apply to the court for an order directing the entry of a new certificate to that person, and upon such notice as the court may require, the petition shall be heard and a proper order rendered therein. In case the claim of title is based upon a tax certificate, tax or assessment deed, the petition shall be filed with the court administrator, who shall docket the same in the land registration docket. The petition shall be referred to the examiner of titles for examination and report in like manner as herein provided for the reference of initial applications for registration. The summons shall be issued in the form and served in the manner as in initial applications. The petition shall be heard by the court and the petitioner shall be required to show affirmatively that all the requirements of the statute to entitle the petitioner to register the title have been complied with. The order shall show the condition of the title to such land and who is the owner thereof. It shall provide, if the petitioner is found to be the owner, for the cancellation of the outstanding certificate of title and the registrar shall issue a new certificate of title for the land in lieu and in place of the outstanding certificate upon presentation to the registrar of a duly certified copy of such order, according to its terms.

Subd. 2. **EXAMINER OF TITLES DIRECTIVE.** Any person holding title to registered land pursuant to forfeiture evidenced by a county auditor's certificate of forfeiture, or auditor's certificate of sale or state assignment certificate that has been memorialized upon a certificate of title for at least ten years is entitled to a new certificate of title for the land, or so much of the land as may be described in the forfeiture documents. The registrar shall enter the new certificate of title and issue a new owner's duplicate certificate only pursuant to court order or upon the written directive of the examiner of titles as to the legal sufficiency of the forfeiture. The directive of the examiner of titles also must specify the instruments the registrar shall omit from the new certificate of title by virtue of the forfeiture.

Sec. 33. Minnesota Statutes 1998, section 508.68, is amended to read:

**508.68 DEATH OF OWNER; ISSUANCE OF NEW CERTIFICATES.**

When the owner of registered land, or of any estate or interest therein, dies, having devised the same by will, the persons entitled thereto may file with the registrar a certified copy of such will and the personal representative's deed of distribution together with any order of distribution, if there be one, or certified copy of any final decree, if there be one, assigning the same, and thereupon the registrar shall cancel the certificate of title issued to the testator and issue a new certificate of title to the persons designated. When the owner of registered land, or of any estate or interest therein, dies, not having devised the same, the persons entitled thereto by law may file with the registrar the personal representative's deed of distribution together with a certified copy of any order of distribution, if there be one, or a certified copy of any final decree of the court assigning the same, and thereupon the registrar shall cancel the certificate of title issued to the intestate and issue a new certificate of title to the persons entitled thereto. Unless restricted by letters testamentary or letters of administration, a personal representative may sell, convey, or mortgage registered land in the same manner as if the land were registered in the representative's name. Such personal representative shall first file with the registrar a certified copy of any will of the decedent and a certified copy of the representative's letters.

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Sec. 34. Minnesota Statutes 1998, section 508.71, is amended by adding a subdivision to read:

Subd. 1a. **CORRECTIONS OF REGISTRAR'S CLERICAL ERRORS.** The registrar may correct clerical errors or omissions made by the registrar's staff in producing certificates of title. An error shall not be erased or obliterated. The registrar may sign and file a correction document and memorialize it upon the affected certificate of title, or may make a correction memorial without a correction document. The memorial shall show the date, time of entry, the nature of the error or omission, and the correct information. If the error or omission may adversely affect the interest of a party, the registrar shall refer the correction to the examiner of titles. The registrar shall prepare subsequent certificates correctly and omit the memorial of the correction.

Sec. 35. Minnesota Statutes 1998, section 508.71, subdivision 2, is amended to read:

Subd. 2. **COURT ORDER.** A registered owner or other person in interest may, at any time, apply by petition to the court, upon the ground that (1) registered interests of any description, whether vested, contingent, expectant, or inchoate, have terminated and ceased; (2) new interests have arisen or been created which do not appear upon the certificate of title; (3) any error or omission was made in entering a certificate of title or any memorial thereon, ~~or on any duplicate certificate~~; (4) the name of any person on the certificate of title has been changed; (5) the registered owner has married, or, if registered as married, that the marriage has been terminated; (6) a corporation which owned registered land and has been dissolved has not conveyed it within three years after its dissolution; or (7), upon any reasonable ground, that any other alteration or adjudication should be made. The court may hear and determine the petition after notice given to all parties in interest, as determined by the examiner of titles, by a summons issued in the form and served in the manner as in initial applications or by an order to show cause, as the court may deem appropriate. After notice has been given as ordered, the court may order the entry of a new certificate of title, the entry, amendment, or cancellation of a memorial upon a certificate of title, or grant any other relief upon the terms, requiring security if necessary, as it may consider proper. The provisions of this section shall not give the court authority to open the original decree of registration, and nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser who holds a certificate of title for value and in good faith, or of the purchaser's heirs or assigns without written consent of the purchaser or heirs or assigns. A certified copy of the petition may be filed as a memorial on any appropriate certificate of title which shall be notice forever to purchasers and encumbrancers of the pendency of the proceeding and all matters referred to in the court files and records pertaining to the proceeding.

Sec. 36. Minnesota Statutes 1998, section 508.71, subdivision 4, is amended to read:

Subd. 4. **REGISTRATION OF MEMORIALS.** Without order of court or directive of the examiner, the registrar of titles may receive and register as memorials upon any certificate of title to which they pertain, the following instruments: receipt or certificate of county treasurer showing redemption from any tax sale or payment of any tax described in a certificate of title, a state deed issued to purchaser of tax-forfeited land, a certified copy of a marriage certificate showing the subsequent marriage of any party shown by a certificate of title to be unmarried, a certified copy of a final decree of divorce or dissolution of a marriage entered in the state of Minnesota, or in any state, territory or possession of the United States, or the District of Columbia to establish the dissolution of

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a marriage relationship of any party shown on the certificate of title to be married, and a certified copy of the death certificate of party listed in any certificate of title as being the spouse of the registered owner when accompanied by an affidavit satisfactory to the registrar identifying the decedent with the spouse. In all subsequent dealings with the land covered by the certificates of title, the registrar shall give full faith to these memorials.

Sec. 37. Minnesota Statutes 1998, section 508.71, subdivision 5, is amended to read:

Subd. 5. **SURVIVORSHIP.** In case of a certificate of title outstanding to two or more owners as joint tenants, upon the filing for registration of a certificate of death of one of the joint tenants and an affidavit of survivorship, ~~and upon the surrender of the owner's duplicate certificate of title,~~ the registrar without the order or directive shall issue a new certificate of title for the premises to the survivor in severalty or to the survivors in joint tenancy as the case may be.

Sec. 38. Minnesota Statutes 1998, section 508.71, subdivision 6, is amended to read:

Subd. 6. **RECORDED INSTRUMENTS.** When instruments affecting registered land have been recorded in the office of any county recorder in this state, a certified copy thereof may be filed for registration and registered with like effect as the original instrument without the order or directive. ~~The owner's duplicate certificate of title shall be presented to the registrar, together with the certified copy, whenever the presentation is required by statute for registration of the original instrument.~~

Sec. 39. Minnesota Statutes 1998, section 508.76, is amended to read:

**508.76 DAMAGES THROUGH ERRONEOUS REGISTRATION; ACTION REGISTRAR'S LIABILITY.**

**Subdivision 1. COMPENSATION FOR LOSS OR DAMAGE.** Any person who, without negligence on that person's part, sustains any loss or damage by reason of any omission, mistake or misfeasance of the registrar or the registrar's deputy, or of any examiner or of any court administrator, or of a deputy of the court administrator or examiner, in the performance of their respective duties under this law, and any person who, without negligence on that person's part, is wrongfully deprived of any land or of any interest therein by the registration thereof, or by reason of the registration of any other person, as the owner of such land, or by reason of any mistake, omission, or misdescription in any certificate of title, or in any entry or memorial, or by any cancellation, in the register of titles, and who, by the provisions of this law, is precluded from bringing an action for the recovery of such land, or of any interest therein, or from enforcing any claim or lien upon the same, may institute an action in the district court to recover compensation out of the general fund for such loss or damage.

**Subd. 2. DOCUMENTS MISFILED.** The registrar may reasonably rely on the affirmative representation of the party presenting instruments for filing as to whether the land described in the instruments or any part of it is registered or unregistered. A party who requests that misfiled instruments be refiled with the registrar is responsible for paying any additional fees required to properly file any instrument misfiled because of an incorrect representation and, if applicable, to enter a new certificate of title.

Sec. 40. Minnesota Statutes 1998, section 508.82, subdivision 1, is amended to read:

Subdivision 1. **STANDARD DOCUMENTS.** The fees to be paid to the registrar shall be as follows:

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(1) of the fees provided herein, five percent of the fees collected under clauses (3), (4), (10), (12), ~~(13)~~, (14), (15), and (16), ~~(17)~~, and ~~(18)~~, for filing or memorializing shall be paid to the state treasurer and credited to the general fund; plus a \$4.50 surcharge shall be charged and collected in addition to the total fees charged for each transaction under clauses (2) to (5), (10), (12), ~~(14)~~, and ~~(18)~~ (16), with 50 cents of this surcharge to be retained by the county to cover its administrative costs and \$4 to be paid to the state treasury and credited to the general fund;

(2) for registering ~~each original~~ a first certificate of title, and including issuing a duplicate copy of it, \$30;

(3) for registering each instrument transferring the fee simple title for which a new certificate of title is issued and for the ~~issuance~~ and registration of the new certificate of title, including a copy of it, \$30;

(4) for the entry of each memorial on a certificate and ~~endorsements upon duplicate~~ certificates, \$15; -

(5) for issuing each residue certificate, \$20;

(6) for exchange certificates, \$10 for each certificate canceled and \$10 for each new certificate issued;

(7) for each certificate showing condition of the register, \$10;

(8) for any certified copy of any instrument or writing on file in the registrar's office, the same fees allowed by law to county recorders for like services;

(9) for a noncertified copy of any certificate of title, other than the copies issued under clauses (2) and (3) of this subdivision, any instrument or writing on file in the office of the registrar of titles, or any specified page or part of it, an amount as determined by the county board for each page or fraction of a page specified. If computer or microfilm printers are used to reproduce the instrument or writing, a like amount per image;

(10) for filing two copies of any plat in the office of the registrar, \$30;

(11) for any other service under this chapter, such fee as the court shall determine;

(12) for issuing a duplicate certificate of title pursuant to the directive of the examiner of titles in counties in which the compensation of the examiner is paid in the same manner as the compensation of other county employees, \$50; plus \$10 to memorialize;

(13) for issuing a duplicate certificate of title pursuant to the directive of the examiner of titles in counties in which the compensation of the examiner is not paid by the county or pursuant to an order of the court, \$10;

~~(14)~~ (12) for filing a condominium plat or an amendment to it in accordance with chapter 515, \$30;

~~(15)~~ (13) for a copy of a condominium plat filed pursuant to chapters 515 and 515A, the fee shall be \$1 for each page of the condominium plat with a minimum fee of \$10;

~~(16)~~ (14) for filing a condominium declaration and plat or an amendment to it in accordance with chapter 515A, \$10 for each certificate upon which the document is registered and \$30 for the filing of the condominium plat or an amendment thereto;

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~~(17)~~ (15) for the filing of a certified copy of a plat of the survey pursuant to section 508.23 or ~~508.671~~, \$10;

~~(18)~~ (16) for filing a registered land survey in triplicate in accordance with section 508.47, subdivision 4, \$30;

~~(19)~~ (17) for furnishing a certified copy of a registered land survey in accordance with section 508.47, subdivision 4, \$10.

Sec. 41. Minnesota Statutes 1998, section 508A.10, is amended to read:

**508A.10 APPLICATION TO EXAMINER; POWERS OF EXAMINER.**

An application for registration for a CPT shall be addressed to the examiner of titles in and for the county in which the land described is situated. The examiner shall have the powers provided in sections 508A.01 to 508A.85 including but not limited to the following:

- (1) To approve all applications prior to filing of record;
- (2) To require an abstract of title with searches and recertifications as desired;
- (3) To require that mailed notice be given to the holders of any interest, when their addresses are known;
- (4) To issue examiner's reports, supplemental reports, initial directives, and supplemental directives to the registrar regarding initial CPTs, ~~owner's duplicates pursuant to section 508A.44~~ or memorials upon any CPT pursuant to section 508A.71;
- (5) To require the county surveyor to review the proposed legal description of any CPT or to inspect the real property;
- (6) To suspend any proceeding hereunder upon receipt of any valid written objections by persons claiming an interest in the real property; and
- (7) To require proceedings subsequent to the initial CPT as may be necessary to achieve the purposes of sections 508A.01 to 508A.85, or to certify instruments transferring title pursuant to sections 508A.59, 508A.62, and 508A.69.

Sec. 42. Minnesota Statutes 1998, section 508A.11, subdivision 3, is amended to read:

Subd. 3. **FEES.** Before the examiner of titles examines the abstract of title, the applicant shall pay to the registrar of titles the fee provided by section 508A.82, clause ~~(17)~~ (15).

Sec. 43. Minnesota Statutes 1998, section 508A.22, subdivision 2, is amended to read:

Subd. 2. **SUPPLEMENTAL DIRECTIVE.** When the directive has been issued pursuant to subdivision 1, the abstract of title shall be continued through the date the directive was filed with the registrar of titles and then delivered to the examiner. On determining that the applicant is the record owner after an examination of the continued abstract and the public records, the examiner shall issue a supplemental directive to the registrar of titles directing the registrar to show by memorial that the five year statute of limitations provided by section 508A.17 will begin on the date the supplemental directive is

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filed on the CPT, to show as memorials any additional liens, encumbrances, or other interests affecting the land, and to delete the memorials of any liens, encumbrances or other interests which were satisfied, released or discharged prior to the issuance of the CPT. The supplemental directive of the examiner shall then be filed as a memorial upon the CPT. Each additional lien, encumbrance, or other interest noted in the supplemental directive shall be shown as a separate memorial on the CPT in addition to the memorial of the supplemental directive. The abstract of title shall be delivered to the registrar of titles who shall retain it, but it shall not be entered as a memorial on the CPT. Until the abstract of title has been delivered to the registrar of titles, the registrar shall not ~~deliver the owner's duplicate CPT to the registered owner nor~~ accept for filing any instrument executed by the registered owner.

Sec. 44. Minnesota Statutes 1998, section 508A.22, subdivision 3, is amended to read:

Subd. 3. **FEES.** Upon the filing with the registrar of titles of the examiner's directive pursuant to subdivision 1, there shall be paid to the registrar: (1) the fee provided by section 508A.82, clause (2), for registering an original a first CPT, and (2) the fee provided by section 508.74, which shall be paid to the state treasurer pursuant to section 508.75. Upon filing with the registrar of titles the supplemental directive of the examiner, there shall be paid to the registrar of titles the fee for the entry of a memorial pursuant to section 508A.82, clause (4).

Sec. 45. Minnesota Statutes 1998, section 508A.25, is amended to read:

#### **508A.25 RIGHTS OF PERSON HOLDING CPT.**

Every person holding a CPT issued pursuant to sections 508A.01 to 508A.85 who has acquired title in good faith and for a valuable consideration shall hold the same free from all encumbrances and adverse claims, excepting only estates, mortgages, liens, charges, and interests as may be noted by separate memorials in the latest CPT in the office of the registrar, and also excepting the memorial provided in section 508A.351 and any of the following rights or encumbrances subsisting against the same, if any:

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

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

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

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

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

(6) any liens, encumbrances, and other interests that may be contained in the examiner's supplemental directive issued pursuant to section 508A.22, subdivision 2;

(7) any claims that may be made pursuant to section 508A.17 within five years from the date the examiner's supplemental directive is filed on the CPT; and

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(8) any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.

No existing or future lien for state taxes arising under the laws of this state for the nonpayment of any amounts due under chapter 268 or any tax administered by the commissioner of revenue may encumber title to lands registered under this chapter unless filed under the terms of this chapter.

Sec. 46. Minnesota Statutes 1998, section 508A.35, is amended to read:

**508A.35 FORMS OF CPT.**

The CPT shall contain the name and residence of the owner, a description of the land and of the estate of the owner, and shall by memorial contain a description of all encumbrances, liens, and interests known to the owner to which the estate of the owner is subject. It shall state whether the owner is 18 years of age or older and if under any legal incapacity, the nature of it. It shall also state whether or not the owner is married and if married, the name of the spouse. In case the land is held in trust or subject to any condition or limitation, it shall state the nature and character of it. It shall be in substantially the following form:

**CERTIFICATE OF POSSESSORY TITLE (CPT)**

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

**Registration of Possessory Title**

State of Minnesota )  
 )ss  
County of ..... )

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

- (1) Liens, claims, or rights arising under the laws of the Constitution of the United States, which the statutes of this state cannot require to appear of record;
- (2) Any real property tax or special assessment for which a sale of the land has not been had at the date of the CPT;
- (3) Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;
- (4) All rights in public highways upon the land;
- (5) The rights, titles, estates, liens, and interests of any person who has acquired an interest set forth in the Examiner's Supplemental Directive issued pursuant to section 508A.22, subdivision 2;
- (6) The rights of any person in possession under deed or contract for deed from the owner of the CPT;

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(7) Any claims that may be made pursuant to section 508A.17 within five years from the date the Examiner's Supplemental Directive is filed on the CPT; and

(8) Any outstanding mechanics lien rights which may exist under sections 514.01 to 514.17.

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

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

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

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

Sec. 47. Minnesota Statutes 1998, section 508A.38, is amended to read:

**508A.38 FORMS OF RECORDS ADOPTED.**

Every instrument Instruments affecting the title to land, filed with the registrar pursuant to sections 508A.01 to 508A.85, shall be numbered consecutively by the registrar who to the extent practicable and the registrar shall endorse upon the same each instrument over the registrar's official signature, OFFICE OF THE REGISTRAR OF TITLES, ... COUNTY, MINNESOTA, CERTIFIED AND FILED ON, together with the date, hour, and minute when the same instrument is filed, the document number thereof, and a reference to its the proper CPT. Every instrument shall be retained by the registrar and regarded as registered from the time of filing except that the Instruments may shall be copied or reproduced as provided by section 15.17, and the copies or reproductions of them substituted for the originals with the equal force and effect as they have. The originals may be then destroyed as provided by section 15.17 as amended. Instruments shall then be returned in person or by mail to the party who presented the instruments for filing or to any other party to whom the registrar is directed to deliver the instruments. When the memorial of any instrument is made upon any CPT, the date, number, and time of filing of it shall also be endorsed upon the CPT. All records and papers relating to registered land in the office of the registrar shall be open to the inspection of the public at the times and under the conditions as the court may prescribe. Duplicates of all instruments, voluntary or involuntary, filed and registered with the registrar, may be presented with the originals, and shall thereupon be endorsed with the file number, and other memoranda on the originals, and may be attested and sealed by the registrar, and returned to the person presenting it them. The registrar shall furnish certified copies of the instruments filed and registered in the registrar's office, upon payment of a fee as provided in section 357.18. The court shall adopt general forms of memorials and notations to be used by the registrars in registering the common forms of conveyance and other instruments.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 48. Minnesota Statutes 1998, section 508A.40, is amended to read:

**508A.40 OWNER'S DUPLICATE RECEIPT COPY OF CPT TO BE FURNISHED TO OWNER.**

At the time the first When a CPT is entered, the registrar shall make a duplicate of it, endorsing across the face of the duplicate the words "Owner's Duplicate CPT" copy of it and deliver it to the owner or the owner's authorized attorney agent. The registrar shall, in every case, when it is practicable so to do, take from the owner a receipt for the duplicate CPT, which shall be signed by the owner in person. In the case of multiple owners the receipt may be executed by any one of the owners. The receipt, when signed and delivered in the office of the registrar, shall be witnessed by the registrar or the registrar's deputy. If the receipt is signed elsewhere, it shall be acknowledged in the same manner as a deed. The receipt shall be prima facie evidence of the genuineness of the signature. The copy need not be presented or surrendered to permit an instrument, voluntary or otherwise, to be filed or a new CPT to be entered, or a memorial to be made on a CPT.

Sec. 49. Minnesota Statutes 1998, section 508A.421, subdivision 2, is amended to read:

Subd. 2. **MULTIPLE PARCELS OR INTERESTS.** The owner or owners of registered land holding (1) one CPT for two or more parcels of land or (2) one CPT for undivided interests in one or more parcels of land may surrender the owner's duplicate CPT for the land and thereupon the registrar may request the registrar to issue separate CPTs to each owner or for each parcel or any combination thereof as may be desired consistent with their registered interests, provided a registered land survey is not required by section 508A.47. When the registrar of titles has issued more than one CPT to one or more owners for one or more parcels of land, the owner or owners may surrender the owner's duplicate CPT for the land and thereupon the registrar may request the registrar to issue a single CPT for all of the land to the owner or owners of the land, or the registrar may issue two or more CPTs to the owner or owners of the land or for each parcel or any combination thereof as may be desired consistent with their registered interests, provided a registered land survey is not required by section 508A.47.

Sec. 50. Minnesota Statutes 1998, section 508A.47, subdivision 4, is amended to read:

Subd. 4. **SURVEY; REQUISITES; FILING; COPIES.** The registered land survey shall correctly show the legal description of the parcel of unplatted land represented by the registered land survey and the outside measurements of the parcel of unplatted land and of all tracts delineated therein, the direction of all lines of the tracts to be shown by angles or bearings or other relationship to the outside lines of the registered land survey, and the surveyor shall place monuments in the ground at appropriate corners, and all tracts shall be lettered consecutively beginning with the letter "A." A registered land survey which delineates multilevel tracts shall include a map showing the elevation view of the tracts with their upper and lower boundaries defined by elevations referenced to National Geodetic Vertical Datum, 1929 adjustment. None of the tracts or parts of them may be dedicated to the public by the registered land survey. Except in counties having microfilming capabilities, a reproduction copy of the registered land survey shall be delivered to the county auditor. The registered land survey shall be on paper, mounted on cloth, shall be a black on white drawing, the scale to be not smaller than one inch equals 200

New language is indicated by underline, deletions by ~~strikeout~~.

feet, and shall be certified to be a correct representation of the parcel of unplatted land by a registered surveyor. The mounted drawing shall be exactly either 17 inches by 14 inches or at the registrar's request 20 inches by 30 inches and not less than 2-1/2 inches of the 14 inches or the 20 inches shall be blank for binding purposes. The survey shall be filed in triplicate with the registrar of titles. Before filing, however, any survey shall be approved in the manner required for the approval of subdivision plats, which approval shall be endorsed on it or attached to it.

A certificate from the treasurer stating that current taxes have been paid shall be presented at the time of filing before the survey is accepted by the registrar for filing.

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

The registrar shall duly certify and furnish to any person a copy of the registered land survey. The copy shall be admissible in evidence.

Sec. 51. Minnesota Statutes 1998, section 508A.49, is amended to read:

**508A.49 INTEREST LESS THAN FEE; NOTICED BY MEMORIAL.**

No new CPT shall be issued upon any transfer of land registered under sections 508A.01 to 508A.85 which does not divest the title in fee simple of the land, or some part of it. All interests in the registered land, less than an estate in fee simple, shall be registered by filing with the registrar the instrument which creates, transfers, or claims the interest, and by brief memorandum or memorial of it made and signed by the registrar upon the CPT. ~~A similar memorandum shall also be made on the owner's duplicate if practicable so to do.~~ The cancellation of interests shall be registered in the same manner.

Sec. 52. Minnesota Statutes 1998, section 508A.51, subdivision 1, is amended to read:

Subdivision 1. **IF VOLUNTARY INSTRUMENT, EXCEPTION: COURT ORDER NEW CPT OR MEMORIAL OF REGISTRATION.** ~~Except as provided in subdivision 2, no new CPT shall be entered or issued, and no memorial shall be made upon any CPT in pursuance of any deed or other voluntary instrument made by the registered owner or the registered owner's attorney-in-fact, unless the owner's duplicate is presented with it, except upon the order of the court. When an order or directive is made, a memorial of it shall be entered, or a new CPT issued as directed. The registrar shall require that the owner's duplicate be presented only when an instrument is submitted for filing that is executed by the registered owner or the registered owner's attorney-in-fact. When any voluntary instrument made by the registered owner or the registered owner's attorney-in-fact is presented for registration, the production of the owner's duplicate CPT shall authorize the registrar to shall enter a new CPT or to make a memorial of registration in accordance with the instrument, and the new CPT or memorial shall be binding upon the registered owner and upon all persons claiming under the registered owner in favor of every purchaser for value and in good faith. In all cases of registration which are procured by fraud, the owner may pursue all legal and equitable remedies against the parties to the fraud, without prejudice to the rights of any innocent holder for value of a CPT.~~

New language is indicated by underline, deletions by ~~strikeout~~.



Sec. 53. Minnesota Statutes 1998, section 508A.52, is amended to read:

**508A.52 CONVEYANCE; CANCELLATION OF OLD AND ISSUANCE OF NEW CPT.**

An owner of land registered under sections 508A.01 to 508A.85 who desires to convey the land, or a portion of it, in fee, shall execute a deed of conveyance, and file the deed, ~~together with the owner's duplicate CPT, with the registrar.~~ The registrar shall require an affidavit by the grantee, or some person in the grantee's behalf, which affidavit shall set forth the name and residence of the grantee, whether the grantee is 18 years of age or older, and whether the grantee is or is not under legal incapacity, whether or not married, and if married, the name of the spouse. The deed of conveyance shall be filed and endorsed with the number and place of registration of the ~~owner's CPT.~~ Before canceling the outstanding CPT, the registrar shall show by memorial on it the registration of the deed on the basis of which it is canceled. The encumbrances, claims, or interests adverse to the title of the registered owner shall be stated upon the new CPT, except so far as they may be simultaneously released or discharged. ~~The owner's duplicate CPT and the original CPT shall be marked "Canceled" by the registrar, who shall enter in the register a new CPT to the grantee, and prepare and deliver to the grantee a copy of the new owner's duplicate CPT.~~ If a deed in fee is for a portion of the land described in a CPT, the memorial of the deed entered by the registrar shall include the legal description contained in the deed and the registrar shall enter a new CPT to the grantee for the portion of the land conveyed and, except as otherwise provided in this section, issue a residue CPT to the grantor for the portion of the land not conveyed. The registrar shall prepare and deliver to each of the parties a ~~new owner's duplicate CPT for copy of their respective CPTs.~~ In lieu of canceling the grantor's CPT and issuing a residue CPT and ~~owner's duplicate CPT~~ to the grantor for the portion of the land not conveyed, the registrar may if the grantor's deed does not divide a parcel of unplatted land, and in the absence of a request to the contrary by the registered owner, mark by the land description on ~~both the owner's duplicate CPT and the original CPT~~ "Part of land conveyed, see memorials." The fee for a residue CPT shall be paid to the registrar only when the grantor's CPT is canceled after the conveyance by the grantor of a portion of the land described in the grantor's CPT. When two or more successive conveyances of the same property are filed for registration on the same day the registrar may enter a CPT in favor of the grantee or grantees in the last of the successive conveyances, and the memorial of the previous deed or deeds entered on the prior CPT shall have the same force and effect as though the prior CPT had been entered in favor of the grantee or grantees in the earlier deed or deeds in the successive conveyances. The fees for the registration of the earlier deed or deeds shall be the same as the fees prescribed for the entry of memorials. The registrar of titles, with the consent of the transferee, may mark "See memorials for new owner(s)" by the names of the registered owners on ~~both the original CPT and the owner's duplicate CPT~~ and also add to the memorial of the transferring conveyance a statement that the memorial shall serve in lieu of a new CPT in favor of the grantee or grantees noted in it and may refrain from canceling the CPT until the time it is canceled by a subsequent transfer, and the memorial showing the transfer of title shall have the same effect as the entry of a new CPT for the land described in the CPT. The fee for the registration of a conveyance without cancellation of the CPT shall be the same as the fee prescribed for the entry of a memorial.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 54. Minnesota Statutes 1998, section 508A.55, is amended to read:

**508A.55 REGISTRATION OF MORTGAGE; MEMORIAL ENTERED ON CERTIFICATE CPT.**

The registration of a mortgage made by the registered owner ~~or, the registered owner's attorney-in-fact or by a party who has an interest registered on the CPT other than the registered owner or the registered owner's attorney-in-fact,~~ shall be made in the following manner: The owner's duplicate CPT mortgage deed or other instrument to be registered shall be presented to the registrar, ~~together with the mortgage deed, or other instrument to be registered,~~ and the registrar shall enter upon the original CPT and also upon the owner's duplicate CPT a memorial of the purport of the instrument registered, the exact time of filing, and its file number. The registrar shall also note upon the registered instrument the time of filing and a reference to the volume and page where it is registered.

Sec. 55. Minnesota Statutes 1998, section 508A.56, is amended to read:

**508A.56 ASSIGNMENT AND DISCHARGE OF MORTGAGE.**

When a mortgage is assigned, extended, or otherwise dealt with, a memorial of the instrument shall be made upon the original CPT. In case only a part of the mortgage upon the land is intended to be released or discharged, a memorial of the partial release shall be entered.

Sec. 56. Minnesota Statutes 1998, section 508A.57, is amended to read:

**508A.57 FORECLOSURE; NOTICE.**

Mortgages upon land registered under sections 508A.01 to 508A.85 may be foreclosed in the same manner as mortgages upon unregistered land. Where the mortgage is upon registered land it shall be sufficient to authorize the foreclosure of it by advertisement, if the mortgage and all assignments of it have been registered, and a memorial of it duly entered upon the CPT. When a mortgage upon the registered land is foreclosed by advertisement, the notice of foreclosure shall state the date of the mortgage, when and where registered, and the fact of registration. All laws relating to the foreclosure of mortgages upon unregistered land shall apply to mortgages upon land registered under sections 508A.01 to 508A.85, or any estate or interest therein, except as herein provided, and except that a notice of the pendency of any suit or proceeding to enforce or foreclose the mortgage or other charge upon the land shall be filed with the registrar, and a memorial of it entered on the register CPT before the first date of publication of the foreclosure notice but not sooner than six months before the first date of publication. A notice so filed and registered shall be notice to the registrar and to all persons thereafter dealing with the land or any part of it and satisfies the requirements of section 580.032, subdivision 3, with respect to registered land. In all foreclosures, all certificates and affidavits permitted or required by law to be recorded with the county recorder shall be filed with the registrar who shall register them:

Sec. 57. Minnesota Statutes 1998, section 508A.58, is amended to read:

**508A.58 REGISTRATION AFTER FORECLOSURE; NEW CPT.**

Subdivision 1. **COURT ORDER.** Any person who has, by an action or other proceeding to enforce or foreclose a mortgage, lien, or other charge upon land registered un-

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der sections 508A.01 to 508A.85, become the owner in fee of the land, or any part of it, may have the title registered. Except as provided in subdivision 2, the person shall apply by duly verified petition to the court for a new CPT to the land, and the court shall then, after due notice to all parties in interest and upon the hearing as the court may direct, make an order for the issuance of a new CPT to the person entitled thereto, and the registrar shall then enter a new CPT to the land, or of the part of it to which the petitioner is entitled, and issue an owner's duplicate as in the case of a voluntary conveyance.

Subd. 2. **EXAMINER OF TITLES DIRECTIVE.** Any person who has become the owner in fee of land registered under sections 508A.01 to 508A.85, or any part of the land, pursuant to a mortgage foreclosure by action under chapter 581 is entitled to a new CPT for the land described in the sheriff's certificate of sale or so much of the land as may be described in the ~~certificate of title~~ CPT, after the redemption period expires. The registrar shall enter a new CPT and issue a new owner's duplicate certificate only pursuant to the court order provided in subdivision 1 or upon the written directive of the examiner of titles as to the legal sufficiency of the mortgage foreclosure proceeding. The directive of the examiner of titles also must specify the instruments the registrar shall omit from the new CPT by virtue of the foreclosure.

Sec. 58. Minnesota Statutes 1998, section 508A.59, is amended to read:

**508A.59 REGISTRATION OF JUDGMENT OR FINAL DECREE.**

A judgment or decree affecting land registered under sections 508A.01 to 508A.85 shall be registered upon the presentation of a certified copy of it to the registrar, who shall enter a memorial of it upon the original CPT and upon the owner's duplicate, if practicable so to do. When the registered owner of the land is by the judgment or decree divested of an estate in fee in it, or of any part of it, the prevailing party shall be entitled to a new CPT for the land, or so much of it as is described in the judgment and decree. The registrar shall enter the new CPT and issue a new owner's duplicate CPT as in the case of a voluntary conveyance. No new CPT shall be entered except upon the written certification of the examiner of titles as to the legal sufficiency of the documents presented for filing for the purpose of issuance of a new CPT or upon the order of the district court directing the issuance of it.

Sec. 59. Minnesota Statutes 1998, section 508A.61, subdivision 2, is amended to read:

Subd. 2. **NEW TRUSTEE.** When a new trustee of land registered under sections 508A.01 to 508A.85 is appointed, a new CPT shall be entered in the new trustee's name upon presentation to the registrar of a certified copy of the decree or other instrument appointing the new trustee and the ~~surrender of the owner's duplicate CPT.~~

Sec. 60. Minnesota Statutes 1998, section 508A.61, subdivision 3, is amended to read:

Subd. 3. **VOLUNTARY DISSOLUTION.** Where a corporate owner did adopt a resolution for voluntary dissolution pursuant to chapter 301, the registrar of titles shall enter a new CPT in the name of the trustee in dissolution upon the ~~surrender of the owner's duplicate CPT~~ and the presentation of a certified copy of the certificate setting forth the adoption of the resolution together with the certificate of the secretary of state that the certificate of dissolution has been filed for record in the secretary's office.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 61. Minnesota Statutes 1998, section 508A.71, is amended by adding a subdivision to read:

Subd. 1a. CORRECTIONS OF REGISTRAR'S CLERICAL ERRORS. The registrar may correct clerical errors or omissions made by the registrar's staff in producing CPTs. An error shall not be erased or obliterated. The registrar may sign and file a correction document and memorialize it upon the affected CPT, or may make a correction memorial without a correction document. The memorial shall show the date, time of entry, the nature of the error or omission, and the correct information. Where the error or omission may adversely affect the interest of any party, the registrar shall refer the correction to the examiner of titles. The registrar shall prepare subsequent CPTs correctly and omit the memorial of the correction.

Sec. 62. Minnesota Statutes 1998, section 508A.71, subdivision 2, is amended to read:

Subd. 2. COURT ORDERS. A registered owner or other person in interest may, at any time, apply by petition to the court, upon the ground that (1) registered interests of any description, whether vested, contingent, expectant, or inchoate, have terminated and ceased; ~~or that~~ (2) new interests have arisen or been created which do not appear upon the CPT; ~~or that~~ (3) any error or omission was made in entering a CPT or any memorial on it; ~~or on any duplicate CPT; or that~~ (4) the name of any person on the CPT has been changed; ~~or that~~ (5) the registered owner has married, or, if registered as married, that the marriage has been terminated; ~~or that~~ (6) a corporation which owned land registered under sections 508A.01 to 508A.85 and has been dissolved has not conveyed it within three years after its dissolution; ~~or~~ (7) upon any reasonable ground, that any other alteration or adjudication should be made. The court may hear and determine the petition after notice given to all parties in interest, as determined by the examiner of titles, by a summons issued in the form and served in the manner as in initial applications pursuant to chapter 508 or by an order to show cause, as the court may deem appropriate. After notice has been given as ordered, the court may order the entry of a new CPT, the entry, amendment, or cancellation of a memorial upon a CPT, or grant any other relief upon terms, requiring security if necessary, as it may consider proper. A certified copy of the petition may be filed as a memorial on any appropriate CPT which shall be notice forever to purchasers and encumbrancers of the pendency of the proceeding and all matters referred to in the court files and records pertaining to the proceeding.

Sec. 63. Minnesota Statutes 1998, section 508A.71, subdivision 3, is amended to read:

Subd. 3. CANCELLATION OF MEMORIAL. At the request of a registered owner or other person in interest the examiner of titles by a written directive may order (1) the amendment or cancellation of a memorial relating to racial restrictions, rights which are barred by a statute or rights which have expired by the terms of the instrument creating the rights, or (2) upon the submission of evidence satisfactory to the examiner, the correction of the name or designation of a party who is a registered owner or who has an interest registered on a certificate of title. The registrar of titles shall register the directives of the examiner of titles upon the CPTs ~~CPT~~, and shall give full faith to the directives.

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Sec. 64. Minnesota Statutes 1998, section 508A.71, subdivision 5, is amended to read:

Subd. 5. **JOINT TENANTS; SURVIVAL.** In case of a CPT outstanding to two or more owners as joint tenants, upon the filing for registration of a certificate of death of one of the joint tenants and an affidavit of survivorship, ~~and upon the surrender of the owner's duplicate CPT,~~ the registrar without an order or directive shall issue a new CPT for the premises to the survivor in severalty or to the survivors in joint tenancy as the case may be.

Sec. 65. Minnesota Statutes 1998, section 508A.71, subdivision 6, is amended to read:

Subd. 6. **CERTIFIED COPIES OF INSTRUMENTS; FILING.** When instruments affecting land registered under sections 508A.01 to 508A.85 have been recorded in the office of any county recorder in this state, a certified copy of it may be filed for registration and registered with like effect as the original instrument without an order or directive. ~~The owner's duplicate CPT shall be presented to the registrar, together with the certified copy, whenever the presentation is required by statute for registration of the original instrument.~~

Sec. 66. Minnesota Statutes 1998, section 508A.72, is amended to read:

**508A.72 AGENCY; POWER TO BE REGISTERED.**

Any act which may legally be done or performed by any person under sections 508A.01 to 508A.85 may be done and performed by an agent when duly authorized in writing. The instrument or power of attorney shall be filed with and registered by the registrar if it is executed and acknowledged as required by law in the case of a deed. Any instrument revoking the power of attorney may be filed and registered if it is executed and acknowledged in the same way. A written instrument of revocation of an unregistered power of attorney, executed and acknowledged by a person having a registered interest in land, may be filed for registration as a memorial upon the certificate of title CPT.

Sec. 67. Minnesota Statutes 1998, section 508A.76, is amended to read:

**508A.76 DAMAGES THROUGH ERRONEOUS REGISTRATION; ACTION REGISTRAR'S LIABILITY.**

Subdivision 1. DAMAGES THROUGH ERRONEOUS REGISTRATION. Any person who, without negligence on that person's part, sustains any loss or damage by reason of any omission, mistake or misfeasance of the registrar or the registrar's deputy, or of any examiner or of any court administrator, or of a deputy of the court administrator or examiner, in the performance of their respective duties under sections 508A.01 to 508A.85, and any person who, without negligence on that person's part, is wrongfully deprived of any land or of any interest in it by the registration of it, or by reason of the registration of any other person, as the owner of the land, or by reason of any mistake, omission, or misdescription in any CPT, or in any entry or memorial, or by any cancellation, in the register of titles, and who, by the provisions of sections 508A.01 to 508A.85, is precluded from bringing an action for the recovery of the land, or of any interest in it, or from enforcing any claim or lien upon the same, may institute an action in the district court to recover compensation out of the general fund for the loss or damage.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. DOCUMENTS MISFILED. The registrar may reasonably rely on the affirmative representation of the party presenting instruments for filing as to whether the land described in the instruments or any part of it is registered or unregistered. A party requesting that misfiled instruments be refiled with the registrar is responsible for paying any additional fees required to properly file any instrument misfiled because of an incorrect representation and, if applicable, to enter a new CPT.

Sec. 68. Minnesota Statutes 1998, section 508A.82, subdivision 1, is amended to read:

Subdivision 1. **STANDARD DOCUMENTS.** The fees to be paid to the registrar shall be as follows:

(1) of the fees provided herein, five percent of the fees collected under clauses (3), (4), (10), (12), ~~(13)~~, (14), and (16), ~~and (18)~~, for filing or memorializing shall be paid to the state treasurer and credited to the general fund; plus a \$4.50 surcharge shall be charged and collected in addition to the total fees charged for each transaction under clauses (2) to (5), (10), (12), ~~(14)~~, and ~~(18)~~ (16), with 50 cents of this surcharge to be retained by the county to cover its administrative costs and \$4 to be paid to the state treasury and credited to the general fund;

(2) for registering each original a first CPT, and including issuing a duplicate copy of it, \$30;

(3) for registering each instrument transferring the fee simple title for which a new CPT is issued and for the issuance and registration of the new CPT, including a copy of it, \$30;

(4) for the entry of each memorial on a certificate and endorsements upon duplicate CPTs CPT, \$15;

(5) for issuing each residue CPT, \$20;

(6) for exchange CPTs, \$10 for each CPT canceled and \$10 for each new CPT issued;

(7) for each ~~certificate~~ CPT showing condition of the register, \$10;

(8) for any certified copy of any instrument or writing on file in the registrar's office, the same fees allowed by law to county recorders for like services;

(9) for a noncertified copy of any CPT, other than the copies issued under clauses (2) and (3), any instrument or writing on file in the office of the registrar of titles, or any specified page or part of it, an amount as determined by the county board for each page or fraction of a page specified. If computer or microfilm printers are used to reproduce the instrument or writing, a like amount per image;

(10) for filing two copies of any plat in the office of the registrar, \$30;

(11) for any other service under sections 508A.01 to 508A.85, the fee the court shall determine;

(12) for issuing a duplicate CPT pursuant to the directive of the examiner of titles in counties in which the compensation of the examiner is paid in the same manner as the compensation of other county employees, \$50, plus \$10 to memorialize;

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(13) for issuing a duplicate CPT pursuant to the directive of the examiner of titles in counties in which the compensation of the examiner is not paid by the county or pursuant to an order of the court, \$10;

(14) (12) for filing a condominium plat or an amendment to it in accordance with chapter 515, §30;

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

(16) (14) for filing a condominium declaration and condominium plat or an amendment to it in accordance with chapter 515A, \$10 for each ~~certificate~~ CPT upon which the document is registered and \$30 for the filing of the condominium plat or an amendment to it;

(17) (15) in counties in which the compensation of the examiner of titles is paid in the same manner as the compensation of other county employees, for each parcel of land contained in the application for a CPT, as the number of parcels is determined by the examiner, a fee which is reasonable and which reflects the actual cost to the county, established by the board of county commissioners of the county in which the land is located;

(18) (16) for filing a registered land survey in triplicate in accordance with section 508A.47, subdivision 4, \$30; and

(19) (17) for furnishing a certified copy of a registered land survey in accordance with section 508A.47, subdivision 4, \$10.

Sec. 69. Minnesota Statutes 1998, section 508A.85, subdivision 3, is amended to read:

Subd. 3. **CHANGEOVER AT REQUEST OF OWNER.** Subsequent to the expiration of the five year period set forth in section 508A.17, any registered owner of a CPT may request a changeover, and upon ~~surrender of the owner's duplicate CPT and~~ payment of the fee for an exchange as specified in section 508A.82, clause (6), the registrar shall issue a certificate of title and cancel the CPT.

Sec. 70. Minnesota Statutes 1998, section 508A.85, subdivision 4, is amended to read:

Subd. 4. **CHANGEOVER, MEMORIALS ON CERTIFICATE OF TITLE.** Any certificate of title issued pursuant to this section shall carry forward all memorials which still affect the land, except for the memorial of the examiner's supplemental directive issued pursuant to section 508A.22, subdivision 2. It shall be made subject to all statutory exceptions and be issued in the same form as provided in section 508.35, except that, in lieu of reciting that the certificate of title was issued pursuant to the order of the district court, the certificate of title shall recite that it was issued pursuant to the provisions of this section and recite the date the ~~first~~ certificate of title was issued for the land involved. The memorial on the CPT pursuant to section 508A.351 shall not be removed without an order of the district court.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 71. Minnesota Statutes 1998, section 524.2-201, is amended to read:

524.2-201 **DEFINITIONS.**

In this part:

(1) As used in sections other than section 524.2-205, "decedent's nonprobate transfers to others" means the amounts that are included in the augmented estate under section 524.2-205.

(2) "Interest in property held with right of survivorship" means the severable interest owned by the person or persons whose interest is being determined in property held in joint tenancy or in other form of common ownership with a right of survivorship. The interest shall be identified and valued as of the time immediately prior to the death of the decedent or the date of the transfer which causes the property to be included in the augmented estate, as the case may be. In the case of an account described in article 6, part 2, the severable interest owned by the person is the amount which belonged to the person determined under section 524.6-203. In the case of property described in article 6, part 3, the severable interest owned by the person is the amount consistent with section 524.6-306.

(3) "Marriage," as it relates to a transfer by the decedent during marriage, means any marriage of the decedent to the decedent's surviving spouse.

(4) "Nonadverse party" means a person who does not have a substantial beneficial interest in the trust or other property arrangement that would be adversely affected by the exercise or nonexercise of the power that the person possesses respecting the trust or other property arrangement. A person having a general power of appointment over property is deemed to have a beneficial interest in the property.

(5) "Power" or "power of appointment" includes a power to designate the beneficiary of an insurance policy or other contractual arrangement.

(6) "Presently exercisable general power of appointment" means a power possessed by a person at the time in question to create a present or future interest in the person, in the person's creditors, in the person's estate, or in the creditor of the person's estate, whether or not the person then had the capacity to exercise the power. "General power of appointment" means a power, whether or not presently exercisable, possessed by a person to create a present or future interest in the person, in the person's creditors, in the person's estate, or in creditors of the person's estate.

(7) "Probate estate" means property that would pass by intestate succession if the decedent dies without a valid will.

(8) "Property" includes values subject to a beneficiary designation.

(9) "Right to income" includes a right to payments under a commercial or private annuity, an annuity trust, a unitrust, or a similar arrangement.

(10) "Transfer" includes: (i) the exercise, release, or lapse of a general power of appointment created by the decedent alone or in conjunction with any other person, or exercisable by a nonadverse party; and (ii) the exercise or release by the decedent of a presently exercisable general power of appointment created by someone other than the decedent. "Transfer" does not include the lapse, other than a lapse at death, of a power described in clause (ii).

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(11) "Bona fide purchaser" means a purchaser for value in good faith and without notice or actual knowledge of an adverse claim, or a person who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation in good faith without notice of an adverse claim. In the case of real property located in Minnesota purchased from a successor or successors in interest of a decedent, the purchaser is without notice of an adverse claim arising under this part or, if the decedent was not domiciled in Minnesota at the time of death, arising under similar provisions of the law of the decedent's domicile, unless the decedent's surviving spouse has filed a notice in the office of the county recorder of the county in which the real property is located or, if the property is registered land, in the office of the registrar of titles of the county in which the real property is located, containing the legal description of the property, a brief statement of the nature and extent of the interest claimed, and the venue, title, and file number of the proceeding for an elective share, if any has been commenced. The registrar of titles is authorized to accept for registration ~~without production of the owner's duplicate of the certificate of title~~ any such notice which relates to registered land.

**Sec. 72. REPEALER.**

Minnesota Statutes 1998, sections 473H.02, subdivision 11; 473H.05, subdivision 3; 508.405; 508.421, subdivision 1; 508.44; 508.45; 508.51, subdivision 2; 508.835; 508A.421, subdivision 1; 508A.44; 508A.45; 508A.51, subdivision 2; and 508A.835, are repealed.

**Sec. 73. EFFECTIVE DATE.**

Article 1 is effective January 1, 2000.

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**ARTICLE 2**

Section 1. Minnesota Statutes 1998, section 515B.1-102, is amended to read:

**515B.1-102 APPLICABILITY.**

(a) Except as provided in this section, this chapter, and not chapters 515 and 515A, applies to all common interest communities created within this state on and after June 1, 1994.

(b) The applicability of this chapter to common interest communities created prior to June 1, 1994, shall be as follows:

(1) This chapter shall apply to condominiums created under chapter 515A with respect to events and circumstances occurring on and after June 1, 1994; provided (i) that this chapter shall not invalidate the declarations, bylaws or condominium plats of those condominiums, and (ii) that chapter 515A, and not this chapter, shall govern all rights and obligations of a declarant of a condominium created under chapter 515A, and the rights and claims of unit owners against that declarant.

(2) The following sections shall in this chapter apply to condominiums created under chapter 515: 515B.1-104 (Variation by Agreement); 515B.1-105 (Separate Titles and Taxation); 515B.1-106 (Applicability of Local Ordinances, Regulations, and Build-

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ing Codes); 515B.1-107 (Eminent Domain); 515B.1-108 (Supplemental General Principles of Law Applicable); 515B.1-109 (Construction Against Implicit Repeal); 515B.1-110 (Uniformity of Application and Construction); 515B.1-111 (Severability); 515B.1-112 (Unconscionable Agreement or Term of Contract); 515B.1-113 (Obligation of Good Faith); 515B.1-114 (Remedies to be Liberally Administered); 515B.1-115 (Notice); 515B.1-116 (Recording); 515B.2-103 (Construction and Validity of Declaration and Bylaws); 515B.2-104 (Description of Units); 515B.2-108(d) (Allocation of Interests); 515B.2-109(c) (Common Elements and Limited Common Elements); 515B.2-112 (Subdivision or Conversion of Units); 515B.2-113 (Alteration of Units); 515B.2-114 (Relocation of Boundaries Between Adjoining Units); 515B.2-115 (Minor Variations in Boundaries); 515B.2-118 (Amendment of Declaration); 515B.3-102 (Powers of Unit Owners' Association); 515B.3-103(a), (b), and (g) (Board; Directors and Officers; Period of Declarant Control); 515B.3-107 (Upkeep of Common Interest Community); 515B.3-108 (Meetings); 515B.3-109 (Quorums); 515B.3-110 (Voting; Proxies); 515B.3-111 (Tort and Contract Liability); 515B.3-112 (Conveyance or Encumbrance of Common Elements); 515B.3-113 (Insurance); 515B.3-114 (Reserves; Surplus Funds); 515B.3-115 (c), (e), (f), (g), (h), and (i) (Assessments for Common Expenses); 515B.3-116 (Lien for Assessments); 515B.3-117 (Other Liens); 515B.3-118 (Association Records); 515B.3-119 (Association as Trustee); 515B.3-121 (Accounting Controls); 515B.4-107 (Resale of Units); 515B.4-108 (Purchaser's Right to Cancel Resale); and 515B.4-116 (Rights of Action; Attorney's Fees); and ~~Section 515B.1-103 (Definitions) shall apply to the extent necessary in construing any of those the sections referenced in this section. The foregoing Sections shall~~ 515B.1-105, 515B.1-106, 515B.1-107, 515B.1-116, 515B.2-103, 515B.2-104, 515B.2-118, 515B.3-102, 515B.3-110, 515B.3-111, 515B.3-113, 515B.3-116, 515B.3-117, 515B.3-118, 515B.3-121, 515B.4-107, 515B.4-108, and 515B.4-116 apply only with respect to events and circumstances occurring on and after June 1, 1994, and shall not. All other sections referenced in this section apply only with respect to events and circumstances occurring after May 31, 1999. A section referenced in this section does not invalidate the declarations, bylaws or condominium plats of those condominiums created before the effective date of amendments made by this section. But all sections referenced in this section prevail over the declarations, bylaws, CIC plats, rules and regulations under them, of condominiums created before the effective date of amendments made by this section, except to the extent that this chapter defers to the declarations, bylaws, CIC plats, or rules and regulations issued under them.

(3) This chapter shall not apply to cooperatives and planned communities created prior to June 1, 1994; except by election pursuant to subsection (d), and except that sections 515B.1-116, subsections (a), (c), (d), (e), (f), and (h), 515B.4-107, and 515B.4-108, apply to all planned communities and cooperatives regardless of when they are created.

(c) This chapter shall not invalidate any amendment to the declaration, bylaws or condominium plat of any condominium created under chapter 515 or 515A if the amendment was recorded before June 1, 1994. Any amendment recorded on or after June 1, 1994, shall be adopted in conformity with the procedures and requirements specified by those instruments and by this chapter. If the amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions contained in this chapter shall also apply to that person.

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(d) Any condominium created under chapter 515, any planned community or cooperative which would be exempt from this chapter under subsection (e), or any planned community or cooperative created prior to June 1, 1994, may elect to be subject to this chapter, as follows:

(1) The election shall be accomplished by recording a declaration or amended declaration, and a new or amended CIC plat where required, and by approving bylaws or amended bylaws, which conform to the requirements of this chapter, and which, in the case of amendments, are adopted in conformity with the procedures and requirements specified by the existing declaration and bylaws of the common interest community, and by any applicable statutes.

(2) In a condominium, the preexisting condominium plat shall be the CIC plat and an amended CIC plat shall be required only if the amended declaration or bylaws contain provisions inconsistent with the preexisting condominium plat. The condominium's CIC number shall be the apartment ownership number or condominium number originally assigned to it by the recording officer. In a cooperative in which the unit owners' interests are characterized as real estate, a CIC plat shall be required. In a planned community, the preexisting plat recorded pursuant to chapter 505, 508, or 508A, or the part of the plat upon which the common interest community is located, shall be the CIC plat.

(3) The amendment shall conform to the requirements of section 515B.2-118(d).

(4) Except as permitted by paragraph (3), no declarant, affiliate of declarant, association, master association nor unit owner may acquire, increase, waive, reduce or revoke any previously existing warranty rights or causes of action that one of said persons has against any other of said persons by reason of exercising the right of election under this subsection.

(5) A common interest community which elects to be subject to this chapter may, as a part of the election process, change its form of ownership by complying with the requirements of section 515B.2-123.

(e) Except as otherwise provided in this subsection, this chapter shall not apply, except by election pursuant to subsection (d), to the following:

(1) a planned community or cooperative which consists of 12 or fewer units subject to the same declaration, which is not subject to any rights to add additional real estate and which will not be subject to a master association;

(2) a common interest community where the units consist solely of separate parcels of real estate designed or utilized for detached single family dwellings or agricultural purposes, and where the association has no obligation to maintain any building containing a dwelling or any agricultural building;

(3) ~~a planned community or cooperative~~ where, at the time of creation of the ~~planned community or cooperative~~, the unit owners' interests in the dwellings as described in the declaration consist solely of leasehold interests ~~proprietary leases~~ having an unexpired term of fewer than 20 years, including renewal options;

(4) ~~a common interest community containing only a combination of dwellings described in paragraphs (2) and (3);~~

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(5) planned communities and cooperatives limited by the declaration to nonresidential use; or

(6) (5) real estate subject only to an instrument or instruments filed primarily for the purpose of creating or modifying rights with respect to access, utilities, parking, ditches, drainage, or irrigation.

(f) Section 515B.1-106 shall apply to all common interest communities.

Sec. 2. Minnesota Statutes 1998, section 515B.1-103, is amended to read:

515B.1-103 **DEFINITIONS.**

In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this chapter:

(1) "Additional real estate" means real estate that may be added to a flexible common interest community.

(2) "Affiliate of a declarant" means any person who controls, is controlled by, or is under common control with a declarant.

(A) A person "controls" a declarant if the person (i) is a general partner, officer, director, or employer of the declarant, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the declarant, (iii) controls in any manner the election of a majority of the directors of the declarant, or (iv) has contributed more than 20 percent of the capital of the declarant.

(B) A person "is controlled by" a declarant if the declarant (i) is a general partner, officer, director, or employer of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the person, (iii) controls in any manner the election of a majority of the directors of the person, or (iv) has contributed more than 20 percent of the capital of the person.

(C) Control does not exist if the powers described in this subsection are held solely as a security interest and have not been exercised.

(3) "Allocated interests" means the following interests allocated to each unit: (i) in a condominium, the undivided interest in the common elements, the common expense liability, and votes in the association; (ii) in a cooperative, the common expense liability and the ownership interest and votes in the association; and (iii) in a planned community, the common expense liability and votes in the association.

(4) "Association" means the unit owners' association organized under section 515B.3-101.

(5) "Board" means the body, regardless of name, designated in the articles of incorporation, bylaws or declaration to act on behalf of the association, or on behalf of a master association when so identified.

(6) "CIC plat" means a common interest community plat described in section 515B.2-110.

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(7) "Common elements" means all portions of the common interest community other than the units.

(8) "Common expenses" means expenditures made or liabilities incurred by or on behalf of the association, or master association when so identified, together with any allocations to reserves.

(9) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to section 515B.2-108.

(10) "Common interest community" or "CIC" means contiguous or noncontiguous real estate within Minnesota that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for (i) real estate taxes levied against; (ii) insurance premiums payable with respect to; (iii) maintenance of; or (iv) construction, maintenance, repair or replacement of improvements located on one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies. Real estate subject to a master association, regardless of when the master association was formed, shall not collectively constitute a separate common interest community unless so stated in the master declaration recorded against the real estate pursuant to section 515B.2-121, subsection (f)(1).

(11) "Condominium" means a common interest community in which (i) portions of the real estate are designated as units, (ii) the remainder of the real estate is designated for common ownership solely by the owners of the units, and (iii) undivided interests in the common elements are vested in the unit owners.

(12) "Conversion property" means real estate on which is located a building that at any time within two years before creation of the common interest community was occupied as a residence wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.

(13) "Cooperative" means a common interest community in which the real estate is owned by an association, each of whose members is entitled by virtue of the member's ownership interest in the association to a proprietary lease.

(14) "Dealer" means a person in the business of selling units for the person's own account.

(15) "Declarant" means:

(i) if the common interest community has been created, (A) any person who has executed a declaration, or an amendment to a declaration to add additional real estate, except secured parties, persons whose interests in the real estate will not be transferred to unit owners, or, in the case of a leasehold common interest community, a lessor who possesses no special declarant rights and who is not an affiliate of a declarant who possesses special declarant rights, or (B) any person who reserves, or succeeds under section 515B.3-104 to any special declarant rights; or

(ii) any person or persons acting in concert who have offered prior to creation of the common interest community to transfer their interest in a unit to be created and not previously transferred.

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(16) "Declaration" means any instrument, however denominated, including any amendment to the instrument, that creates a common interest community.

(17) "Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in the common interest community, but the term does not include the transfer or release of a security interest.

(18) "Flexible common interest community" means a common interest community to which additional real estate may be added.

(19) "Leasehold common interest community" means a common interest community in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the common interest community or reduce its size.

(20) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of section 515B.2-102(d) or (f) for the exclusive use of one or more but fewer than all of the units.

(21) "Master association" means an entity created on or after June 1, 1994, that directly or indirectly exercises any of the powers set forth in section 515B.3-102 on behalf of one or more members described in section 515B.2-121(b), (i), (ii) or (iii), whether or not it also exercises those powers on behalf of one or more property owners associations described in section 515B.2-121(b)(iv). An entity A person (i) hired by an association to perform maintenance, repair, accounting, bookkeeping or management services, or (ii) granted authority under an instrument recorded primarily for the purpose of creating rights or obligations with respect to utilities, access, drainage, or recreational amenities, is not, solely by virtue reason of that relationship, a master association.

(22) "Master declaration" means a written instrument, however named, (i) recorded on or after June 1, 1994, against property subject to powers exercised by a master association and (ii) satisfying the requirements of section 515B.2-121, subsection (f)(1).

~~(22)~~ (23) "Period of declarant control" means the time period provided for in section 515B.3-103(c) during which the declarant may appoint and remove officers and directors of the association.

~~(23)~~ (24) "Person" means an individual, corporation, limited liability company, partnership, trustee under a trust, personal representative, guardian, conservator, government, governmental subdivision or agency, or other legal or commercial entity capable of holding title to real estate.

(24) (25) "Planned community" means a common interest community that is not a condominium or a cooperative. A condominium or cooperative may be a part of a planned community.

(25) (26) "Proprietary lease" means an agreement with a cooperative association whereby a member of the association is entitled to exclusive possession of a unit in the cooperative.

(26) (27) "Purchaser" means a person, other than a declarant, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than (i) a leasehold interest of less than 20 years, including renewal options, or (ii) a security interest.

(27) (28) "Real estate" means any fee simple, leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests

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that by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" may include spaces with or without upper or lower boundaries, or spaces without physical boundaries.

~~(28)~~ (29) "Residential use" means use as a dwelling, whether primary, secondary or seasonal, but not transient use such as hotels or motels.

~~(29)~~ (30) "Secured party" means the person owning a security interest as defined in paragraph (30).

~~(30)~~ (31) "Security interest" means a perfected interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a mortgagee's interest in a mortgage, a vendor's interest in a contract for deed, a lessor's interest in a lease intended as security, a holder's interest in a sheriff's certificate of sale during the period of redemption, an assignee's interest in an assignment of leases or rents intended as security, a lender's interest in a cooperative share loan, a pledgee's interest in the pledge of an ownership interest, or any other interest intended as security for an obligation under a written agreement.

~~(31)~~ (32) "Special declarant rights" means rights reserved in the declaration for the benefit of a declarant to:

- (i) complete improvements indicated on the CIC plat;
- (ii) add additional real estate to a common interest community;
- (iii) subdivide units or convert units into common elements, limited common elements and/or units;
- (iv) maintain sales offices, management offices, signs advertising the common interest community, and models;
- (v) use easements through the common elements for the purpose of making improvements within the common interest community or any additional real estate;
- (vi) create a master association and provide for the exercise of authority by the master association over the common interest community or its unit owners;
- (vii) merge or consolidate a common interest community with another common interest community of the same form of ownership; or
- (viii) appoint or remove any officer or director of the association, or the master association where applicable, during any period of declarant control.

~~(32)~~ (33) "Time share" means a right to occupy a unit or any of several units during three or more separate time periods over a period of at least three years, including renewal options, whether or not coupled with an estate or interest in a common interest community or a specified portion thereof.

~~(33)~~ (34) "Unit" means a physical portion of a common interest community the boundaries of which are described in the common interest community's declaration and which is intended for separate ownership or separate occupancy pursuant to a proprietary lease.

~~(34)~~ (35) "Unit identifier" means English letters or Arabic numerals, or a combination thereof, which identify only one unit in a common interest community and which meet the requirements of section 515B.2-104.

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~~(35)~~ (36) "Unit owner" means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold common interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the common interest community, but does not include a secured party. In a common interest community, the declarant is the unit owner of a unit until that unit has been conveyed to another person.

Sec. 3. Minnesota Statutes 1998, section 515B.1-116, is amended to read:

515B.1-116 **RECORDING.**

(a) A declaration, bylaws, any amendment to a declaration or bylaws, and any other instrument affecting a common interest community shall be entitled to be recorded. In those counties which have a tract index, the county recorder shall enter the declaration in the tract index for each unit affected. The registrar of titles shall file the declaration on the certificate of title for each unit affected.

(b) The recording officer shall upon request promptly assign a number (CIC number) to a common interest community to be formed or to a common interest community resulting from the merger of two or more common interest communities.

(c) Documents recorded pursuant to this chapter shall in the case of registered land be filed, and references to the recording of documents shall mean filed in the case of registered land.

(d) Subject to any specific requirements of this chapter, if any document to be recorded pursuant to this chapter requires approval by a certain vote or agreement of the a recorded document relating to a common interest community purports to require the execution of any restatement or amendment of the document by a certain percentage of unit owners or secured parties, and if the amendment or restatement is to be recorded pursuant to this chapter, an affidavit of the president or secretary of the association stating that the required vote or agreement has occurred shall be attached to the document to be recorded and shall constitute prima facie evidence of the representations contained therein.

(e) If a common interest community is located on registered land, the recording fee for any document affecting two or more units shall be the then-current fee for registering the document on the certificates of title for the first ten affected certificates and one-third of the then-current fee for each additional affected certificate. This provision shall not apply to recording fees for deeds of conveyance, with the exception of deeds given pursuant to sections 515B.2-119 and 515B.3-112.

(f) Except as permitted under this subsection, a recording officer shall not file or record a declaration creating a new common interest community, unless the county treasurer has certified that the property taxes payable in the current year for the real estate included in the proposed common interest community have been paid. This certification is in addition to the certification for delinquent taxes required by section 272.12. In the case of pre-existing common interest communities, the recording officer shall accept, file, and record the following instruments, without requiring a certification as to the current or delinquent taxes on any of the units in the common interest community: (i) a declaration subjecting the common interest community to this chapter; (ii) a declaration changing the form of a common interest community pursuant to section 515B.2-123; or (iii) an

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amendment to or restatement of the declaration, bylaws, or CIC plat. In order for the instruments to be accepted and recorded under the preceding sentence, the assessor must certify or otherwise inform the recording officer that, for taxes payable in the current year, the assessor has allocated taxable values to each unit or has separately assessed each unit.

(g) The registrar of titles shall not require the filing on certificates of title previously issued for units in a flexible common interest community of an amendment to a declaration pursuant to section 515B.2-111 made solely to add additional real estate.

(h) In the case of an amendment to a declaration or a transfer of special declarant rights with respect to a common interest community located on registered land, the registrar of titles shall not require the surrender of the owner's duplicate certificates of title to record the document, except for any owner's duplicate certificates of title relating to additional real estate being added by an amendment under section 515B.2-111.

Sec. 4. Minnesota Statutes 1998, section 515B.2-101, is amended to read:

**515B.2-101 CREATION OF COMMON INTEREST COMMUNITIES.**

(a) On and after June 1, 1994, a common interest community may be created only as follows:

(1) A condominium may be created only by recording a declaration.

(2) A cooperative may be created only by recording a declaration and by recording a conveyance of the real estate subject to that declaration to the association.

(3) A planned community which includes common elements may be created only by simultaneously recording a declaration and by recording a conveyance of the common elements subject to that declaration to the association.

(4) A planned community without common elements may be created only by recording a declaration.

(b) Except as otherwise expressly provided in this chapter, the declaration shall be executed by all persons whose interests in the real estate will be conveyed to unit owners, except vendors under contracts for deed, and by every lessor of a lease the expiration or termination of which will terminate the common interest community. The declaration shall be recorded in every county in which any portion of the common interest community is located. Failure of any party not required to execute a declaration, but having a recorded interest in the common interest community, to join in the declaration shall have no effect on the validity of the common interest community; provided that the party is not bound by the declaration until that party acknowledges the existence of the common interest community in a recorded instrument.

(c) In a condominium or real estate cooperative where the unit boundaries are delineated by a physical structure, a declaration, or an amendment to a declaration adding units, may ~~shall~~ not be recorded unless all structural components and mechanical systems of all buildings containing or comprising any units serving more than one unit in all buildings containing the units thereby created, but not necessarily the units, are substantially completed, as evidenced by a recorded certificate executed by a registered engineer or architect.

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(d) A project which (i) meets the definition of a "common interest community" in section 515B.1-103(10), (ii) is created after May 31, 1994, and (iii) is not exempt under section 515B.1-102(e), is subject to this chapter even if this or other sections of the chapter have not been complied with, and the declarant and all unit owners are bound by all requirements and obligations of this chapter.

Sec. 5. Minnesota Statutes 1998, section 515B.2-104, is amended to read:

**515B.2-104 DESCRIPTION OF UNITS.**

(a) A description of a unit is legally sufficient if it sets forth (i) the unit identifier of the unit, (ii) the number assigned to the common interest community by the recording officer, and (iii) the county in which the unit is located.

(b) If the CIC plat for a planned community complies with chapter 505, 508, or 508A, then a description of a unit in the planned community is legally sufficient if it is stated in terms of a plat or registered land survey. Any instrument conveying or asserting an interest in a unit shall reference the county and the common interest community number immediately following the name of the plat or registered land survey. In planned communities whose CIC plats comply with section 515B.2-110(c), and in all condominiums and cooperatives created under this chapter, a unit identifier shall contain no more than six characters, only one of which may be a letter.

(c) A description which conforms to the requirements of this section shall be deemed to include all rights, obligations, and interests appurtenant to the unit which were created by the declaration or bylaws, or by this chapter, whether or not those rights, obligations, or interests are expressly described.

(d) If the CIC plat for a planned community complies with section 515B.2-110(c) a description of the common elements is legally sufficient if it sets forth (i) the words "common elements," (ii) the number assigned to the common interest community by the recording officer, and (iii) the county in which the common elements are located. The common elements may consist of separate parcels of real estate, in which case each parcel shall be separately identified on the CIC plat and in any recorded instrument referencing a separate parcel of the common elements.

Sec. 6. Minnesota Statutes 1998, section 515B.2-105, is amended to read:

**515B.2-105 DECLARATION CONTENTS; ALL COMMON INTEREST COMMUNITIES.**

(a) The declaration shall contain:

(1) the number of the common interest community, whether the common interest community is a condominium, planned community or cooperative, and the name of the common interest community, which shall appear at the top of the first page of the declaration in the following format:

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Common Interest Community No. ....

(Type of Common Interest Community)

(Name of Common Interest Community)

(DECLARATION)

(2) a statement as to whether the common interest community is or is not subject to a master association;

(3) the name of the association, a statement that the association has been incorporated and a reference to the statute under which it was incorporated;

(4) a legally sufficient description of the real estate included in the common interest community, including the name of the county a statement identifying any appurtenant easement necessary for access to a public street or highway, and a general reference to any other appurtenant easements;

(5) a description of the boundaries of each unit created by the declaration and the unit's unit identifier;

(6) in a planned community containing common elements, a legally sufficient description of the common elements;

(7) in a cooperative, a statement as to whether the unit owners' interests in all units and their allocated interests are real estate or personal property;

(8) an allocation to each unit of the allocated interests in the manner described in section 515B.2-108;

(9) a statement of (i) the total number of units and (ii) which units will be restricted to residential use and which units will be restricted to nonresidential use;

(10) a statement of the maximum number of units which may be created by the subdivision or conversion of units owned by the declarant pursuant to section 515B.2-112;

(11) any material restrictions on use, occupancy, or alienation of the units, or on the sale price of a unit or on the amount that may be received by an owner on sale, condemnation or casualty loss to the unit or to the common interest community, or on termination of the common interest community; provided, that these requirements shall not affect the power of the association to adopt, amend or revoke rules and regulations pursuant to section 515B.3-102;

(12) a statement as to whether time shares are permitted; and

(13) all matters required by sections 515B.1-103(31), Special Declarant Rights; 515B.2-107, Leaseholds; 515B.2-109, Common Elements and Limited Common Elements; 515B.2-110, Common Interest Community Plat; 515B.3-115, Assessments for Common Expenses; and 515B.2-121, Master Associations.

(b) The declaration may contain any other matters the declarant considers appropriate.

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Sec. 7. Minnesota Statutes 1998, section 515B.2-108, is amended to read:

**515B.2-108 ALLOCATION OF INTERESTS.**

(a) The declaration shall allocate to each unit:

(1) in a condominium, a fraction or percentage of undivided interests in the common elements and in the common expenses of the association and a portion of the votes in the association;

(2) in a cooperative, an ownership interest in the association, a fraction or percentage of the common expenses of the association and a portion of the votes in the association; and

(3) in a planned community, a fraction or percentage of the common expenses of the association and a portion of the votes in the association.

(b) The declaration shall state the formulas used to establish allocations of interests. If the fractions or percentages are all equal the declaration may so state in lieu of stating the fractions or percentages. If equality is designated by the declaration as the formula for the allocation of votes, votes do not attach to units that are auxiliary to other units, such as garage units or storage units. The allocations ~~may~~ shall not discriminate in favor of units owned by the declarant or an affiliate of the declarant, except as provided in section sections 515B.2-121 and 515B.3-115.

(c) If units may be added to the common interest community, the declaration shall state the formulas to be used to reallocate the allocated interests among all units included in the common interest community after the addition.

(d) The declaration may authorize special allocations ~~which provide: (i) that different allocations of votes and/or common expenses shall be made of unit owner votes among certain units or classes of units on particular matters specified in the declaration, or (ii) for class voting on specified issues affecting the class, with respect to allocations within the class or common expenses pertaining only to the class, or to otherwise protect valid interests of the class of common expenses among certain units or classes of units on particular matters specified in the declaration.~~ Special allocations shall may only be used to address operational, physical or administrative differences within the common interest community. A declarant may not utilize special allocations for the purpose of evading any limitation or obligation imposed on declarants by this chapter nor may units constitute a class because they are owned by a declarant.

(e) The sum of each category of allocated interests allocated at any time to all the units must equal one if stated as a fraction or 100 percent if stated as a percentage. In the event of a discrepancy between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.

(f) In a condominium or planned community, the common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void. The granting of easements, licenses or leases pursuant to section 515B.3-102 shall not constitute a partition.

(g) In a cooperative, any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an ownership interest in the association made without the possessory interest in the unit to which that interest is related is void.

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Sec. 8. Minnesota Statutes 1998, section 515B.2-109, is amended to read:

**515B.2-109 COMMON ELEMENTS AND LIMITED COMMON ELEMENTS.**

(a) Except as limited by the declaration or this chapter, common elements other than limited common elements may be used in common by all unit owners. Limited common elements are designated for the exclusive use of the unit owners of the unit or units to which the limited common elements are allocated, subject to subsection (b) and the rights of the association as set forth in the declaration, the bylaws or this chapter.

(b) Except for the limited common elements described in section 515B.2-102, subsections (d) and (f), the declaration shall specify to which unit or units each limited common element is allocated.

(c) An allocation of limited common elements may be changed by an amendment to the declaration executed by the unit owners between or among whose units the reallocation is made and the association. The amendment shall be approved by the board of directors of the association as to form, and compliance with the declaration and this chapter. The association shall establish fair and reasonable procedures and time frames for the submission and processing of the reallocations, and shall maintain records thereof. If approved, the association shall cause the amendment to be recorded promptly. The amendment shall be effective when recorded. The association may require the unit owners requesting the reallocation to pay all fees and costs for reviewing, preparing and recording the amendment and any amended CIC plat.

Sec. 9. Minnesota Statutes 1998, section 515B.2-110, is amended to read:

**515B.2-110 COMMON INTEREST COMMUNITY PLAT (CIC PLAT).**

(a) The A CIC plat is required for condominiums and planned communities, and cooperatives in which the unit owners' interests are characterized as real estate. The CIC plat is a part of the declaration in condominiums, and in cooperatives in which the unit owners' interests are characterized as real estate, but need not be physically attached to the declaration.

(1) In a condominium, or a cooperative in which the unit owners' interests are characterized as real estate, the CIC plat shall comply with subsection (c).

The CIC plat for (2) In a planned community, a CIC plat which does not comply with subsection (c) may shall consist of all or part of the a subdivision plat satisfying the requirements of chapter 505, 508, or 508A, and or plats complying with subsections (d)(1) and (d)(2). The CIC plat need not contain the number of the common interest community need not appear on the CIC plat. The CIC plat is a part of the declaration in condominiums, and in cooperatives in which the unit owners' interests are characterized as real estate, but need not be physically attached to the declaration., and may be recorded at any time at or before the time of recording of the declaration. If the CIC plat for the planned community complies with subsection (c), the number of the common interest community shall be included and the CIC plat shall be recorded at the time of recording of the declaration.

(3) In cooperatives a cooperative in which the unit owners' interests are characterized as personal property, a CIC plat shall not be required. In lieu of a CIC plat, the decla-

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ration or any amendment to it creating, converting, or subdividing units in a personal property cooperative shall include an exhibit containing a scale drawing of each building, identifying the building, and showing the perimeter walls of each unit created or changed by the declaration or any amendment to it, including the unit's unit identifier, and its location within the building if the building contains more than one unit.

(b) The CIC plat for condominiums, for planned communities using a plat complying with subsection (c), and for cooperatives in which the unit owners' interests are characterized as real estate, shall contain certifications by a registered professional land surveyor and registered professional architect, as to the parts of the CIC plat prepared by each, that (i) the CIC plat accurately depicts all information required by this section, and (ii) the work was undertaken by, or reviewed and approved by, the certifying land surveyor or architect. The portions of the CIC plat depicting the dimensions of the portions of the common interest community described in subsections (c)(8), (9), (10), and (12), may be prepared by either a land surveyor or an architect. The other portions of the CIC plat shall be prepared only by a land surveyor. A certification of the CIC plat or an amendment to it under this subsection by an architect is not required if all parts of the CIC plat or amendment are prepared by a land surveyor. Certification by the land surveyor or architect does not constitute a warranty or warranty of the nature, suitability, or quality of construction of any improvements located or to be located in the common interest community.

(c) A CIC plat for a condominium or cooperative shall show:

(1) the number of the common interest community, and the boundaries, dimensions and a legally sufficient description of the land included therein;

(2) the dimensions and location of all existing, material structural improvements and roadways;

(3) the intended location and dimensions of any contemplated common element improvements to be constructed within the common interest community after the filing of the CIC plat, labeled either "MUST BE BUILT" or "NEED NOT BE BUILT";

(4) the location and dimensions of any additional real estate, labeled as such, and a legally sufficient description of the additional real estate;

(5) the extent of any encroachments by or upon any portion of the common interest community;

(6) the location and dimensions of all recorded easements within the common interest community serving or burdening any portion of the common interest community;

(7) the distance and direction between noncontiguous parcels of real estate;

(8) the location and dimensions of limited common elements, for example, storage lockers, porches, balconies, decks and patios, other than except that with respect to limited common elements described in section 515B.2-102, subsections (d) and (f), only such material limited common elements as porches, balconies, decks, patios, and garages shall be shown;

(9) the location and dimensions of the front, rear, and side boundaries of each unit and that unit's unit identifier;

(10) the location and dimensions of the upper and lower boundaries of each unit with reference to an established or assumed datum and that unit's unit identifier;

(11) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as "leasehold real estate";

(12) any units which may be converted by the declarant to create additional units or common elements identified separately.

(d) A CIC plat for a planned community either shall comply with subsection (c) or it shall:

(1) satisfy the requirements of chapter 505, 508, or 508A, as applicable; and

(2) satisfy the platting requirements of any governmental authority within whose jurisdiction the planned community is located, subject to the limitations set forth in section 515B.1-106.

(e) If a declarant adds additional real estate, the declarant shall record a supplemental CIC plat or plats for the real estate being added, conforming to the requirements of this section which apply to the type of common interest community in question. If less than all additional real estate is being added, the supplemental CIC plat for a condominium, a planned community whose CIC plat complies with subsection (c), or a cooperative in which the unit owners' interests are characterized as real estate, shall also show the location and dimensions of the remaining portion.

(f) If a declarant subdivides or converts any unit into two or more units, common elements or limited common elements, the declarant shall record an amendment to the CIC plat showing the location and dimensions of any new units, common elements and limited common elements thus created.

Sec. 10. Minnesota Statutes 1998, section 515B.2-113, is amended to read:

#### 515B.2-113 ALTERATIONS OF UNITS.

Subject to the provisions of the declaration and applicable law:

(a) Subject to the provisions of the declaration and applicable law, a unit owner may, at the unit owner's expense, make any improvements or alterations to the unit, provided: ~~(i)~~ (i) that they do not impair the structural integrity or mechanical systems, affect the common elements, or impair the support of any portion of the common interest community provided, ~~(ii)~~ (ii) that prior arrangements are made with the association to ensure that other unit owners are not disturbed, ~~(iii)~~ (iii) that the common elements are not damaged; and ~~(iv)~~ (iv) that the common elements and other units are protected against mechanics' liens.

(b) Subject to the provisions of applicable law, a unit owner of a unit in residential use may, at the unit owner's expense, make improvements or alterations to the unit as necessary for the full enjoyment of the unit by any person residing in the unit who has a handicap or disability, as provided in the Fair Housing Amendments Act, United States Code, title 42, section 3601, et seq., and the Minnesota Human Rights Act, chapter 363, and any amendments to those acts.

(c) The declaration, bylaws, rules, and regulations, or agreements with the association may not prohibit the improvements or alterations referred to in subsection (b), but

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may reasonably regulate the type, style, and quality of the improvements or alterations, as they relate to health, safety, and architectural standards. In addition, improvements or alterations made pursuant to subsection (b) must satisfy the requirements of subsection (a)(i), (ii), (iii), and (iv).

(d) Notwithstanding any contrary provision of section 515B.1-102, subsection (b) applies to all common interest communities subject to chapter 515, 515A, or this chapter. The unit owner's rights under this section may not be waived.

(e) Subsection (b) does not apply to restrictions on improvements or alterations imposed by statute, rule, or ordinance.

(f) Subject to the provisions of the declaration and applicable law, a unit owner may, at the unit owner's expense, after acquiring title to an adjoining unit or an adjoining part of an adjoining unit, with the prior written approval of the association and first mortgagees of the affected units, remove or alter any intervening partition or create apertures therein, even if the partition is part of the common elements, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common interest community. The adjoining unit owners shall have the exclusive license to use the space occupied by the removed partition, but the use shall not create an easement or vested right. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries. The association may require that the owner or owners of units affected replace or restore any removed partition, that the unit owner comply with subsection (a)(i), (ii) and (iii), and that the unit owner pay all fees and costs incurred by the association in connection with the alteration.

Sec. 11. Minnesota Statutes 1998, section 515B.2-118, is amended to read:

#### 515B.2-118 AMENDMENT OF DECLARATION.

(a) Except in cases of amendments that may be executed by a declarant under section 515B.2-111 or 515B.2-112, or by the association and/or certain unit owners under section 515B.2-107, 515B.2-109, 515B.2-112, 515B.2-113, 515B.2-114, or 515B.2-119, and except as limited by subsection (d), the declaration, including any CIC plat, may be amended only by vote or written agreement of unit owners of units to which at least 67 percent of the votes in the association are allocated, or any greater or other requirement the declaration specifies. The declaration may specify a smaller percentage only if all of the units are restricted to nonresidential use. The declaration, including any CIC plat, may be amended only by vote or written agreement of unit owners of units to which at least 67 percent of the votes in the association are allocated, or any greater or other requirement the declaration specifies, subject to the following qualifications:

(1) A declarant may execute amendments under section 515B.2-111 or 515B.2-112.

(2) The association and certain unit owners, as applicable, may execute amendments under section 515B.2-107, 515B.2-109, 515B.2-112, 515B.2-113, 515B.2-114, 515B.2-119, 515B.2-122, 515B.2-123, or 515B.2-124.

(3) The unanimous written consent of the unit owners is required for any amendment which (i) creates or increases special declarant rights, (ii) increases the number of units, (iii) changes the boundaries of any unit, (iv) changes the allocated interests of a unit, (v) changes common elements to limited common elements, (vi) changes the autho-

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rized use of a unit from residential to nonresidential, or conversely, or (vii) changes the characterization of the unit owner's interest in a cooperative from real estate to personal property, or conversely; unless the amendment is expressly permitted or required by other provisions of this chapter.

(4) The declaration may specify less than 67 percent for approval of an amendment, but only if all of the units are restricted to nonresidential use.

(b) No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than two years after the amendment is recorded.

(c) Every amendment to the declaration shall be recorded in every county in which any portion of the common interest community is located and is effective only when recorded. If an amendment (i) changes the number of units, (ii) changes the boundary of a unit, (iii) changes common elements to limited common elements, or conversely, or (iv) makes any other change that affects the CIC plat, then an amendment to the CIC plat reflecting the change shall be recorded.

~~(d) Except as expressly permitted or required by other provisions of this chapter, no amendment may (i) create or increase special declarant rights, (ii) increase the number of units, (iii) change the boundaries of any unit, (iv) change the allocated interests of a unit, (v) change common elements to limited common elements, (vi) change the authorized use of a unit from residential to nonresidential, or conversely, or (vii) change the characterization of the unit owners' interests in a cooperative from real estate to personal property, or conversely, in the absence of unanimous written consent of the unit owners.~~

Sec. 12. Minnesota Statutes 1998, section 515B.2-119, is amended to read:

**515B.2-119 TERMINATION OF COMMON INTEREST COMMUNITY.**

(a) Except as otherwise provided in this chapter, a common interest community may be terminated only by agreement of unit owners of units to which at least 80 percent of the votes in the association are allocated, and 80 percent of the first mortgagees of units (each mortgagee having one vote per unit financed), or any larger percentage the declaration specifies. The declaration may specify a smaller percentage only if all of the units are restricted to nonresidential use.

(b) An agreement to terminate shall be evidenced by a written agreement, executed in the same manner as a deed by the number of unit owners and first mortgagees of units required by subsection (a). The agreement shall specify a date after which the agreement shall be void unless recorded before that date. The agreement shall also specify a date by which the termination of the common interest community and the winding up of its affairs must be accomplished. A certificate of termination executed by the association evidencing the termination shall be recorded on or before the termination date, or the agreement to terminate shall be revoked. The agreement to terminate, or a memorandum thereof, and the certificate of termination shall be recorded in every county in which a portion of the common interest community is situated and is effective only upon recording.

(c) In the case of a condominium or planned community containing only units having upper and lower boundaries, a termination agreement may provide that all of the common elements and units of the common interest community must be sold following termination. If, pursuant to the agreement, any real estate in the common interest communi-

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ty is to be sold following termination, the termination agreement shall set forth the minimum terms of sale acceptable to the association.

(d) In the case of a condominium or planned community containing any units not having upper and lower boundaries, a termination agreement may provide for sale of the common elements, but it may not require that the units be sold following termination, unless the original declaration provided otherwise or all unit owners whose units are to be sold consent to the sale.

(e) The association, on behalf of the unit owners, shall have authority to contract for the sale of real estate in a common interest community pursuant to this section, subject to the required approval. The agreement to terminate shall be deemed to grant to the association a power of attorney coupled with an interest to effect the conveyance of the real estate on behalf of the holders of all interests in the units, including without limitation the power to execute all instruments of conveyance and related instruments. Until the sale has been completed, all instruments in connection with the sale have been executed and the sale proceeds distributed, the association shall continue in existence with all powers it had before termination.

(1) The instrument conveying or creating the interest in the common interest community shall include as exhibits (i) an affidavit of the secretary of the association certifying that the approval required by this section has been obtained and (ii) a schedule of the names of all unit owners in the common interest community as of the date of the approval.

(2) Proceeds of the sale shall be distributed to unit owners and secured parties as their interests may appear, in accordance with subsections (h), (i), (j), and (k).

(3) Unless otherwise specified in the agreement of termination, until the association has conveyed title to the real estate, each unit owner and the unit owner's successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit. During the period of that occupancy, each unit owner and the unit owner's successors in interest remain liable for all assessments and other obligations imposed on unit owners by this chapter, the declaration or the bylaws.

(f) The legal description of the real estate constituting the common interest community shall, upon the date of recording of the certificate of termination referred to in subsection (b), be as follows:

(1) In a planned community, the lot and block description contained in the CIC plat, and any amendments thereto, subject to any subsequent conveyance or taking of a fee interest in any part of the property.

(2) In a condominium or cooperative, the underlying legal description of the real estate as set forth in the declaration creating the common interest community, and any amendments thereto, subject to any subsequent conveyance or taking of a fee interest in any part of the property.

(3) The legal description referred to in this subsection shall apply upon the recording of the certificate of termination. The recording officer for each county in which the common interest community is located shall index the property located in that county in its records under the legal description required by this subsection from and after the date of recording of the certificate of termination. In the case of registered property, the registrar of titles shall cancel the existing certificates of title with respect to the property and issue

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one or more certificates of title for the property utilizing the legal description required by this subsection.

(g) In a condominium or planned community, if the agreement to terminate provides that the real estate constituting the common interest community is not to be sold following termination, title to the common elements and, in a common interest community containing only units having upper and lower boundaries described in the declaration, title to all the real estate in the common interest community, vests in the unit owners upon termination as tenants in common in proportion to their respective interest as provided in subsection (k), and liens on the units shift accordingly. While the tenancy in common exists, each unit owner and the unit owner's successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit.

(h) The proceeds of any sale of real estate pursuant to subsection (e), together with the assets of the association, shall be held by the association as trustee for unit owners, secured parties and other holders of liens on the units as their interests may appear. Before distributing any proceeds, the association shall have authority to deduct from the proceeds of sale due with respect to the unit (i) unpaid assessments levied by the association with respect to the unit, (ii) unpaid real estate taxes or special assessments due with respect to the unit, and (iii) the share of expenses of sale and winding up of the association's affairs with respect to the unit.

(i) Following termination of a condominium or planned community, creditors of the association holding liens on the units perfected before termination may enforce those liens in the same manner as any lien holder, in order of priority based upon their times of perfection. All other creditors of the association are to be treated as if they had perfected liens on the units immediately before termination.

(j) In a cooperative, the declaration may provide that all creditors of the association have priority over any interests of unit owners and creditors of unit owners. In that event, following termination, creditors of the association holding liens on the cooperative which were perfected before termination may enforce their liens in the same manner as any lien holder, in order of priority based upon their times of perfection. All other creditors of the association shall be treated as if they had perfected a lien against the cooperative immediately before termination. Unless the declaration provides that all creditors of the association have that priority:

(1) the lien of each creditor of the association which was perfected against the association before termination becomes, upon termination, a lien against each unit owner's interest in the unit as of the date the lien was perfected;

(2) any other creditor of the association is to be treated upon termination as if the creditor had perfected a lien against each unit owner's interest immediately before termination;

(3) the amount of the lien of an association's creditor described in paragraphs (1) and (2) against each of the unit owners' interest shall be proportionate to the ratio which each unit's common expense liability bears to the common expense liability of all of the units;

(4) the lien of each creditor of each unit owner which was perfected before termination continues as a lien against that unit owner's interest in the unit as of the date the lien was perfected; and

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(5) the assets of the association shall be distributed to all unit owners and all lien holders as their interests may appear in the order described in this section. Creditors of the association are not entitled to payment from any unit owner in excess of the amount of the creditor's lien against that unit owner's interest.

(k) The respective interest of unit owners referred to in subsections (e), (f), (g), (h) and (i) are as follows:

(1) Except as provided in paragraph (2), the respective interests of unit owners are the fair market values of their units, allocated interests, and any limited common elements immediately before the termination, as determined by one or more independent appraisers selected by the association. The decision of the independent appraisers must be distributed to the unit owners and becomes final unless disapproved within 30 days after distribution by unit owners of units to which 25 percent of the votes in the association are allocated. The proportion of any unit's interest to that of all units is determined by dividing the fair market value of that unit by the total fair market values of all the units.

(2) If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value thereof before destruction cannot be made, the interests of all unit owners are: (i) in a condominium, their respective common element interests immediately before the termination, (ii) in a cooperative, their respective ownership interests immediately before the termination, and (iii) in a planned community, their respective common expense liabilities immediately before the termination.

(1) In a condominium or planned community, except as provided in subsection (m), foreclosure or enforcement of a lien or encumbrance against the entire common interest community does not terminate, of itself, the common interest community, and foreclosure or enforcement of a lien or encumbrance against a portion of the common interest community does not withdraw that portion from the common interest community.

(m) In a condominium or planned community, if a lien or encumbrance against a portion of the real estate comprising the common interest community has priority over the declaration and the lien or encumbrance has not been partially released, the parties foreclosing the lien or encumbrance, upon foreclosure, may record an instrument excluding the real estate subject to that lien or encumbrance from the common interest community.

(n) Following the termination of a common interest community in accordance with this section, the board of directors of the association shall cause the association to be dissolved in accordance with law.

Sec. 13. Minnesota Statutes 1998, section 515B.2-121, is amended to read:

**515B.2-121 MASTER ASSOCIATIONS.**

(a) A master association formed after June 1, 1994, shall be organized as a Minnesota profit, nonprofit, or cooperative or ~~municipal~~ corporation. A master association shall be incorporated prior to the delegation to it of any powers under this chapter.

(b) The members of the master association shall be any combination of (i) unit owners of one or more common interest communities, (ii) one or more associations, (iii) one or more master associations, or (iv) owners or property owners associations not subject to this chapter in combination with any other category of member. An association or its

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members may be members of an entity created before June 1, 1994, which performs functions similar to those performed by a master association regardless of whether the entity is subject to this chapter.

(c) If so provided in the declaration, any of the powers described in section 515B.3-102 may be delegated to and exercised by a master association, and the master association shall have all powers referred to elsewhere in this chapter which may be necessary or incidental to the exercise of the delegated powers. However, a master association may exercise the powers set forth in section 515B.3-102(a)(2) only to the extent expressly permitted in the declarations of the common interest communities, and the declarations or bylaws of other master associations, which are intended to be subject to those powers and which are members of the master association, or whose members or associations are members of the master association. A master association shall be governed by a board of directors. The directors of a master association shall be elected or, if a nonprofit corporation, elected or appointed, in a manner consistent with the requirements of the statute under which the master association is formed and of the master association's articles of incorporation and bylaws, and subject to the following requirements:

(1) Except as set forth in subsections (2) and (3), the members of the master association shall elect the board of directors. A majority of the directors shall be members of the master association or members of a member of the master association, and shall be persons other than a declarant or affiliate of a declarant. If the member is not a natural person, it may designate a natural person to act on its behalf.

(2) The articles of incorporation or bylaws of the master association may authorize a person other than a member of the master association or a unit owner, including a declarant, to appoint or elect one director.

(3) A master association's articles of incorporation may suspend the members' right to elect or, in the case of a nonprofit corporation, elect or appoint, the master association's board of directors for a specified time period. During this period, the person or persons who execute the master declaration under subsection (f)(1), or their successors or assigns, may appoint the directors. The period during which the person or persons may appoint the directors begins when the master declaration is recorded and terminates upon the earliest of:

- (i) the voluntary surrender of the right to appoint directors;
- (ii) the date ten years after the date the master declaration is recorded;
- (iii) the date, if any, in the articles of incorporation; or

(iv) the date when at least 75 percent of the associations that are members of the master association or whose members are members of the master association are controlled by their members. An association's members control the association when they have the right to elect or appoint a majority of the association's voting directors.

(4) The term of any director appointed under subsection (3) expires 60 days after the right to appoint directors terminates. The master association's board of directors shall call an annual or special meeting of the master association's members to elect or appoint successor directors within the 60-day period.

(5) The system for the election of directors shall be fair and equitable, and shall take into account the number of members of each association any of whose powers are dele-

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gated to the master association, the needs of the members of the master association, the allocation of liability for master association common expenses, and the types of common interest communities and other real estate subject to the master association.

(d) The powers may be delegated to a master association by the declaration, or by the board pursuant to authority granted in the declaration. If any delegation of powers may be made at the discretion of the board, the board of the master association shall have authority to determine whether the delegation of powers is authorized by, and consistent with the intent of, the declaration of the common interest community whose association's powers are being delegated and the organizational documents of the master association, and shall have authority to refuse any improper delegation of powers. The articles of incorporation or bylaws of the master association may authorize special classes of directors and allocations of director voting rights, as follows: (i) classes of directors that are elected by different classes of members, to address operational, physical, or administrative differences within the master association, or (ii) class voting by the classes of directors on specific issues affecting only a certain class or classes of members or units, or to otherwise protect the legitimate interests of such class or classes. No person may utilize such special classes or allocations for the purpose of evading any limitation imposed on declarations by this chapter.

(e) If a board properly delegates powers to a master association, the members of the board have no liability for the acts or omissions of the master association with respect to the delegated powers following delegation, except those arising out of their actions as officers or directors of the master association. The officers of a master association shall be elected, appointed, or designated in a manner consistent with the statute under which the master association is formed and consistent with the master association articles of incorporation and bylaws.

(f) Sections 515B.3-103, 515B.3-108, 515B.3-109, 515B.3-110, and 515B.3-112 shall apply in the conduct of the affairs of a master association; provided, that the rights of voting, notice and other rights enumerated in those sections apply only to persons who elect the board of a master association, whether or not those persons are otherwise unit owners within the meaning of this chapter. The creation and authority of a master association shall be governed by the following requirements:

(1) A master declaration shall be recorded in connection with the creation of a master association. The master declaration shall be executed by the owners of the real estate subjected to the master declaration. The master declaration shall contain, at a minimum:

(i) the name of the master association;

(ii) a legally sufficient description of the real estate which is subject to the master declaration, and a legally sufficient description of any other real estate which may be subjected to the master declaration pursuant to subsection (g);

(iii) a statement as to whether the real estate subject to, and which may be subjected to, the master declaration collectively is or collectively will be a separate common interest community;

(iv) a description of the members of the master association;

(v) a description of the powers to be exercised by the master association on behalf of its members, and on behalf of the members of its members in the case of members that are

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common interest communities. The provisions of the master declaration with respect to the grant and exercise of powers for common interest communities subject to the master association shall be consistent with the declarations of the common interest communities that delegate powers to the master association;

(vi) a description of the formula governing the allocation of assessments and member voting rights, including any special classes or allocations referred to in subsection (d); and

(vii) the requirements for amendment of the master declaration, other than an amendment under subsection (g).

(2) The declaration of a common interest community subject to the master association shall contain provisions delegating, or authorizing the delegation of, powers to the master association in accordance with subsection (f)(3). The provisions of the declarations relating to the delegation shall be consistent with the provisions of the master declaration granting or reserving those powers to the master association.

(3) The declaration may:

(i) delegate any of the powers described in section 515B.3-102 to a master association. A delegation of the powers described in section 515B.3-102(a)(2) is effective only if expressly stated in the declaration; and

(ii) authorize the board to delegate any of the powers described in section 515B.3-102, except for the powers described in section 515B.3-102(a)(2), to a master association.

(4) With respect to any other property subject to a master association, there need not be an instrument other than the master declaration recorded against the property to empower the master association to exercise powers with respect to the property.

(5) If a declaration or other recorded instrument authorizes a board or owner to delegate powers to a master association, the master association board may refuse any delegation of powers that does not comply with (i) this chapter, (ii) the declaration or other recorded instrument, or (iii) the organizational documents of the master association.

(6) The failure of a declaration, a board or an owner of property subject to a master association to properly delegate some or all of the powers to the master association does not affect the authority of the master association to exercise those and other powers with respect to other common interest communities or owners of properties that are subject to the master association.

(g) The bylaws of the master association may provide for a control period during which the members of the master association board may be appointed by a person, identified in the master association's bylaws, other than the members of the master association. The control period may extend from the date of filing of the articles of incorporation of the master association, and shall terminate upon the earlier of (i) surrender of control by the person authorized to appoint the members of the master association board or (ii) 60 days after conveyance of 75 percent of the units contained in all common interest communities subject to the master association to unit owners other than a declarant or an affiliate of a declarant of those common interest communities, subject to the following:

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(1) Not later than 60 days after conveyance of 50 percent of the units that may be created to unit owners other than a declarant or an affiliate of a declarant, a meeting of the members of the master association shall be held at which not less than 33-1/3 percent of the members of the master association board shall be elected by persons entitled to elect said board other than a declarant or an affiliate of a declarant.

(2) Not later than the termination of the control period, those members of the master association entitled to elect the master association board shall elect a master association board of at least three members. Thereafter, a majority of the directors of the master association board shall be members of the master association other than a declarant or an affiliate of a declarant. The remaining directors need not be members of the master association, unless required by the articles of incorporation or bylaws of the master association. The master association board shall elect the officers of the master association. The directors and officers shall take office upon election.

(3) In determining whether the control period has terminated under subsection (h), or whether members other than a declarant or an affiliate of a declarant are entitled to elect members of the master board, the percentage of units which has been conveyed shall be calculated based upon the assumption that all units which a declarant or declarants have built or reserved the right to build in all common interest communities which may be subject to the master association are subjected to the master association.

(h) The declaration or bylaws of the master association, and the declaration of each common interest community whose association's powers are delegated to the association, shall provide that after the expiration of the control period referred to in subsection (g) the board of the master association shall be elected by the members of the master association. The system of election shall be fair and equitable, and shall take into account the number of members of each association any of whose powers are delegated to the master association, the needs of the members of the master association, the allocation of liability for master association common expenses and the types of common interest communities and other real estate subject to the master association.

(i) Master association common expenses shall be allocated among the members of the master association in a fair and equitable manner. Where applicable and appropriate, the formulas and principles described in section 515B.2-108 (b), (c), (d) and (e) should be utilized in making the allocations. The formulas and procedures governing the allocation and assessment of master association common expenses shall be set forth in the declaration or bylaws of the master association, and shall be consistent with the declarations of the common interest communities which may be subject to the master association.

(j) If a master association owns or controls real estate which is subject to use rights by members of the master association, an instrument describing the use rights, and the benefited land and parties, shall be recorded against the real estate.

(g) The master declaration may authorize other real estate to be subjected to the master declaration. The other real estate shall be subjected to the master declaration by an amendment executed by the owner of the other real estate and approved in writing by the person who executed the master declaration, if other than the owner of the other real estate.

(h) Sections 515B.3-103, 515B.3-108, 515B.3-109, 515B.3-110, and 515B.3-112 shall apply in the conduct of the affairs of a master association. But the rights of voting,

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notice, and other rights enumerated in those sections apply only to persons who elect or appoint the board of a master association, whether or not those persons are otherwise unit owners within the meaning of this chapter.

(i) If so provided in the master declaration, a master association may levy assessments for common expenses of the master association against the property subject to the master declaration, and have and foreclose liens securing the assessments. The liens shall have the same priority against secured parties, shall include the same fees and charges, and may be foreclosed in the same manner, as assessment liens under section 515B.3-116. The master association's lien shall have priority as against the lien of an association or property owner's association subject to the master association, regardless of when the lien arose or was perfected.

(1) Master association common expenses shall be allocated among the members of the master association in a fair and equitable manner. If the members are associations or property owners' associations, then the master assessments may be allocated among and levied directly against the units or other parcels owned by the members of the association or property owner's association. If so provided in the master declaration, master assessments levied against a member association or property owner's association are allocated among and levied against the units or other parcels owned by the members of the association or property owner's association. If applicable and appropriate, the formulas and principles described in section 515B.2-108, subsections (b), (c), (d), and (e), shall be used in making the allocations. The assessment formulas and procedures described in the declarations of any common interest communities or any instruments governing other real estate subject to the master association shall not conflict with the formulas and procedures described in the master declaration.

(2) The master declaration may exempt from liability any person authorized by subsection (c)(3) to appoint the members of the master association board for master association common expenses, and exempt any unit owned by the person from a lien for such common expenses, until a dwelling constituting or located within the unit is substantially completed. Substantial completion shall be evidenced by a certificate of occupancy in a jurisdiction that issues that certificate.

(k) (j) A master association shall not be used, directly or indirectly, to avoid or nullify any warranties or other obligations for which a declarant of a common interest community subject to the master association is responsible, or to otherwise avoid the requirements of this chapter.

Sec. 14. Minnesota Statutes 1998, section 515B.2-122, is amended to read:

**515B.2-122 MERGER OR CONSOLIDATION OF COMMON INTEREST COMMUNITIES.**

(a) Any two or more common interest communities of the same form of ownership, by agreement of the unit owners as provided in subsection (b), may be merged or consolidated into a single common interest community. The resultant common interest community shall be the legal successor, for all purposes, of all of the preexisting common interest communities, and the operations and activities of the preexisting common interest communities are merged or consolidated into a single common interest community that holds all powers, rights, obligations, assets, and liabilities of the preexisting common interest communities.

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(b) An agreement of two or more common interest communities to merge or consolidate pursuant to subsection (a) shall be evidenced by an agreement executed by the president of the association of each of the preexisting common interest communities following approval by owners of units to which are allocated the votes in each common interest community required to terminate that common interest community.

(c) Every merger or consolidation agreement shall contain:

(1) the names of the resultant common interest community and its association;

(2) the number of the resultant common interest community, which shall be a new common interest community number assigned to the resultant common interest community by the recording officer;

(3) a requirement that the associations of the common interest communities shall be merged pursuant to the applicable statute;

(4) a reallocation of the allocated interests in the preexisting common interest communities among the units of the resultant common interest community by stating the reallocations and the formulas upon which they are based;

(5) a statement that the common interest communities have approved and will, within 90 days after the execution of the merger agreement, record a declaration as provided in subsection (d) or commence an appropriate proceeding to accomplish the recording if necessary.

(d) A declaration, including a new or amended CIC plat if necessary, complying with this chapter and governing the resultant common interest community shall be recorded in every county in which a portion of each preexisting common interest community is located, and the merger or consolidation is not effective until the declaration is recorded. In addition to other matters required by this chapter, the declaration shall contain:

(1) a reference to the names and numbers of the preexisting common interest communities, and the names of their associations;

(2) a statement that the preexisting common interest communities and their associations have been merged or consolidated pursuant to this chapter and the applicable corporate statute, and

(3) a statement that the declaration supersedes the declarations of the preexisting common interest communities and governs the resultant common interest community.

(e) Upon approval as provided in subsection (b), the association for the resultant common interest community may execute the declaration, and a new or amended CIC plat if necessary, on behalf of the unit owners of, and all other persons holding an interest in, the units or other property that is a part of the preexisting common interest communities, and to do all other acts necessary to merge or consolidate the common interest communities.

(f) The declaration and CIC plat for the resultant common interest community may be recorded without the necessity of paying the current or delinquent real estate taxes on any of the units.

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Sec. 15. **[515B.2-124] SEVERANCE OF COMMON INTEREST COMMUNITY.**

(a) Unless the declaration provides otherwise, a part of a common interest community containing one or more units may be severed from the common interest community, subject to the requirements of this section. Subject to any additional requirements contained in the declaration, the severance shall be approved in a written severance agreement satisfying the requirements of this section, executed by:

(1) unit owners entitled to cast at least 67 percent of the votes in the association, which approval shall include the approval of unit owners entitled to cast a majority of the votes allocated to units in the remaining common interest community and the approval of unit owners entitled to cast a majority of the votes allocated to units in the part of the common interest community being severed;

(2) declarant until the earlier of five years after the recording of the declaration or the time at which declarant no longer owns an unsold unit; and

(3) in the case of a cooperative, all holders of mortgages or contracts for deed on the entire real estate constituting the cooperative.

(b) The declaration may specify a smaller percentage for unit owner approval only if all of the units are restricted to nonresidential use.

(c) The severance agreement shall specify a severance date by which the severance of the common interest community shall be accomplished, after which the severance agreement is void. The severance agreement shall be deemed to grant to the association a power of attorney coupled with an interest to effect the severance of the common interest community on behalf of the unit owners and the holders of all other interests in the units, including without limit the power to execute the amendment to the declaration, any instruments of conveyance, and all related instruments.

(d) The severance agreement shall:

(1) Approve an amendment to the declaration complying with this chapter, in substantially the same form to be recorded, which, at a minimum, (i) legally describes the real estate constituting the remaining common interest community and the real estate being severed, (ii) restates the number of units in the remaining common interest community, and (iii) reallocates the interests of the unit owners in the remaining common interest community among the remaining units in accordance with the allocation formula set forth in the declaration, and (iv) recites any easements to which the severed portion of the common interest community remains subject.

(2) Approve an amendment to the articles of incorporation and bylaws of the remaining common interest community, if necessary.

(3) Authorize the association to execute and record the amended declaration, articles of incorporation or bylaws on behalf of the unit owners and all other persons holding an interest in the remaining common interest community, and to take other actions necessary to accomplish the severance of the common interest community.

(4) Allocate the assets and liabilities of the association between the association, and (i) a new association formed pursuant to subsection (g), or (ii) the owners of the units

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being severed, subject to a lien against their interest in the severed real estate or their share in the assets of the association in favor of any person that held a security interest in their unit.

(5) If the units that are being severed from the common interest community will not be included in a new common interest community that is (i) formed simultaneously with the severance of the common interest community, and (ii) includes all of the units and substantially all of the common elements being severed, then the agreement shall contain the written consent of holders of first mortgages on all units that are being severed, and shall describe in detail the proposed disposition of all real estate to be severed and all assets of the association allocated to the severed units, and the distribution of the proceeds of the disposition, if any.

(e) The severance agreement or a memorandum of it shall be recorded in every county in which a part of the common interest community is located. The recording of the severance agreement or memorandum of it shall, from the date of recording, constitute notice to all persons subsequently acquiring an interest in the common interest community that the common interest community is being severed, and that those persons acquire their interests subject to the terms and conditions contained in the severance agreement and the amendment to the declaration.

(f) The amendment to the declaration of the remaining common interest community shall be recorded on or before the severance date, or the severance agreement and the amendment to the declaration is void as of the day after the severance date. The recording of the amendment to the declaration shall complete the severance of the common interest community and release the severed part of the common interest community from the declaration without further action by any person.

(g) If the unit owners whose units are being severed from the common interest community intend to form a new common interest community, then said unit owners shall unanimously approve a declaration, articles of incorporation and bylaws to govern the new common interest community no later than 60 days before the effective date of the severance. The declaration creating the new common interest community shall be recorded simultaneously with the amendment to the declaration. No later than 30 days before the effective date of the severance, the unit owners shall cause the association governing the new common interest community to be created by filing the articles of incorporation of the association with the secretary of state, and shall elect a board of directors to act on behalf of the new association. The board of directors of the new association shall coordinate the completion of the severance with the board of directors of the existing association. The existing association shall retain all authority to act on behalf of the common interest community until the amendment to the declaration is recorded.

(h) The legal descriptions of the real estate constituting (i) the remaining common interest community, and (ii) the severed portion of the common interest community shall, at the time of recording of the amendment to the declaration referred to in subsection (e), be as follows:

(1) In a planned community using a CIC plat that complies with section 515B.2-110, subsection (d), the lot and block descriptions contained in the CIC plat, and any amendments to it, with respect to (i) the remaining common interest community, and (ii) the severed portion of the common interest community.

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(2) In a condominium, or cooperative or planned community using a CIC plat that complies with section 515B.2-110, subsection (c), (i) the CIC plat description relating to the remaining common interest community, and (ii) the part of the underlying legal description of the real estate in the declaration creating the common interest community, and any amendments to it, relating to the severed part of the common interest community.

(3) The recording officer for each county in which the common interest community is located shall index the property located in that county in its records under the legal descriptions required by this subsection as of the date of recording of the amendment to the declaration. In the case of registered property, the registrar of titles shall cancel the existing certificates of title for the severed part of the common interest community and issue certificates of title for the property using the legal descriptions required by this subsection.

(i) In a condominium or planned community, if the severed part of the common interest community is not to be reconstituted as a new common interest community following severance, title to the common elements and, in a common interest community in which all units have upper and lower boundaries described in the declaration title to all the real estate in the severed part of the common interest community, vests in the unit owners of the units being severed, upon severance, as tenants in common in proportion to their respective allocated interests in the declaration, and liens on the units shift accordingly. While the tenancy in common exists, each unit owner and the unit owner's successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit, and a nonexclusive easement across, over and under any common elements contained in the severed portion of the common interest community for enjoyment, access, utilities, communication services, and other essential services, as applicable.

(j) No common interest community shall be severed in such a manner as to materially impair access, utility services, communication services, or other essential services with respect to either the remaining common interest community or the severed part of the common interest community.

#### Sec. 16. [515B.2-125] ADDITION OF COMMON ELEMENTS.

(a) Unless the declaration provides otherwise, real estate owned by the association may be added to the common interest community, as common elements only, subject to the requirements of this section. Subject to any additional requirements contained in the declaration, the addition of the real estate shall be approved by:

(1) unit owners entitled to cast at least 67 percent of the votes in the association;

(2) declarant until the earlier of (i) five years after the recording of the declaration, or (ii) the time at which declarant no longer owns an unsold unit; and

(3) in the case of a cooperative, all holders of mortgages or contracts for deed on the entire real estate constituting the cooperative.

(b) The declaration may specify a smaller percentage for unit owner approval only if all of the units are restricted to nonresidential use. A part of the common elements shall not be designated as limited common elements unless approved unanimously in writing by the unit owners.

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(c) The approval by the unit owners shall be deemed to grant to the association a power of attorney coupled with an interest to acquire title to the real estate, if not previously acquired, and to add the real estate to the common interest community on behalf of the unit owners and the holders of all other interests in the units, including without limit the power to execute an amendment to the declaration and any other instruments relating to the acquisition.

(d) Following the required approvals, the association shall record an amendment to the declaration complying with this chapter, that, at a minimum, (i) legally describes the real estate added, (ii) designates the real estate as part of the common elements, and (iii) subjects the real estate to the declaration.

(e) In the case of a common interest community using a plat complying with section 515B.2-110, subsection (c), the association shall record an amended CIC plat reflecting the change in the common elements with the amendment to the declaration. The recording of the amendment to the declaration, and amended CIC plat if required, shall complete the addition of the real estate without further action by any person.

Sec. 17. Minnesota Statutes 1998, section 515B.3-103, is amended to read:

**515B.3-103 DUTY OF BOARD, OFFICERS DURING, AFTER DECLARANT CONTROL.**

(a) An association shall be governed by a board of directors. Except as expressly prohibited by the declaration, the articles of incorporation, bylaws, subsection (b), or other provisions of this chapter, the board may act in all instances on behalf of the association. In the performance of their duties, the officers and directors are required to exercise (i) if appointed by the declarant, the care required of fiduciaries of the unit owners and (ii) if elected by the unit owners, the care required of a director by section 302A.251 or 317A.251, as applicable.

(b) The board may not act unilaterally to amend the declaration, to terminate the common interest community, to elect directors to the board, or to determine the qualifications, powers and duties, or terms of office of directors, but the board may fill vacancies in its membership created other than by removal by the vote of the association members for the unexpired portion of any term.

(c) Subject to subsection (d), the declaration may provide for a period of declarant control of the association, during which a declarant, or persons designated by the declarant, may appoint and remove the officers and directors of the association. The maximum period of declarant control may extend from the date of the first conveyance of a unit to a unit owner other than a declarant for a period not exceeding five years in the case of a flexible common interest community or three years in the case of any other common interest community. Regardless of any longer period provided in the declaration or elsewhere, a period of declarant control shall terminate upon the earlier of (i) surrender of control by the declarant or (ii) 60 days after conveyance of 75 percent of the units to unit owners other than a declarant.

(d) Not later than 60 days after conveyance of 50 percent of the units that may be credited to unit owners other than a declarant or an affiliate of a declarant, a meeting of the unit owners shall be held at which not less than 33-1/3 percent of the members of the board shall be elected by unit owners other than a declarant or an affiliate of a declarant.

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(e) ~~Not later than~~ Following the termination of any period of declarant control the unit owners shall elect ~~a the board~~ of at least three members. ~~Thereafter, a majority of the directors shall be unit owners other than a declarant or an affiliate of a declarant. The remaining directors need not be unit owners unless required by the articles of incorporation, bylaws or declaration. All unit owners, including the declarant and its affiliates, may cast the votes allocated to any units owned by them. The board shall elect the officers. The directors and officers shall take office upon election. All unit owners, including the declarant and its affiliates, may cast the votes allocated to any units owned by them. The board shall thereafter be subject to the following requirements.~~

(1) A majority of the directors shall be unit owners other than a declarant or an affiliate of a declarant, or a natural person designated by a unit owner that is not a natural person. The remaining directors need not be unit owners unless required by the articles of incorporation or bylaws.

(2) Subject to the requirements of subsection (1), the articles of incorporation or by laws may authorize (i) the appointment or election of one director, who need not be a unit owner, by a declarant or by a person or persons other than a unit owner, (ii) classes of directors, and (iii) the election of certain directors by unit owners of a certain class or classes of units. The articles of incorporation or bylaws shall not be amended to change or terminate the authorization described in (i) without the written consent of the person possessing the power to appoint or elect.

(3) Subject to the requirements of subsection (1), if separate classes of directors are authorized under subsection (2), the articles of incorporation or bylaws may authorize class voting by classes of directors on specified issues affecting only a certain class of units, or to protect the legitimate interests of the class. A person shall not use special class voting to evade any limit imposed on declarants by this chapter.

(4) The board shall elect the officers. The directors and officers shall take office upon election.

(f) In determining whether the period of declarant control has terminated under subsection (c), or whether unit owners other than a declarant are entitled to elect members of the board of directors under subsection (d), the percentage of the units which has been conveyed shall be calculated based upon the assumption that all units which the declarant has built or reserved the right to build in the declaration are included in the common interest community. The percentages referred to in subsections (c) and (d) shall be calculated without reference to units that are auxiliary to other units, such as garage units or storage units. A person shall not use a master association or other device to evade the requirements of this section.

(g) Except as otherwise provided in this subsection, meetings of the board of directors must be open to the unit owners. To the extent practicable, the board shall give reasonable notice to the unit owners of the date, time, and place of a board meeting. If the date, time, and place of meetings are provided for in the declaration, articles, or bylaws, announced at a previous meeting of the board, posted in a location accessible to the unit owners and designated by the board from time to time, or if an emergency requires immediate consideration of a matter by the board, notice is not required. "Notice" has the meaning given in section 317A.011, subdivision 14. Meetings may be closed to discuss the following:

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(1) personnel matters;

(2) pending or potential litigation, arbitration or other potentially adversarial proceedings, between unit owners, between the board or association and unit owners, or other matters in which any unit owner may have an adversarial interest, if the board determines that closing the meeting is necessary to discuss strategy or to otherwise protect the position of the board or association or the privacy of a unit owner or occupant of a unit; or

(3) criminal activity arising within the common interest community if the board determines that closing the meeting is necessary to protect the privacy of the victim or that opening the meeting would jeopardize investigation of the activity.

Nothing in this subsection imposes a duty on the board to provide special facilities for meetings. The failure to give notice as required by this subsection shall not invalidate the board meeting or any action taken at the meeting. The minutes of any part of a meeting that is closed under this subsection may be kept confidential at the discretion of the board.

Sec. 18. Minnesota Statutes 1998, section 515B.3-105, is amended to read:

**515B.3-105 TERMINATION OF DECLARANT'S CONTRACTS, LEASES.**

If entered into prior to expiration of the period of declarant control pursuant to section 515B.3-103, (i) any management contract, employment contract, or lease of recreational facilities, units, garages or other parking facilities, (ii) any contract, lease or license binding the association to which a declarant or an affiliate of a declarant is a party, or (iii) any contract, lease or license binding the association or any unit owner other than the declarant or an affiliate of the declarant which is not bona fide or which was unconscionable to the unit owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the association at any time after the expiration of declarant control upon not less than 90 days' notice to the other party. If, during the suspension period described in subsection 2-121(c)(3), a contract, lease, or license of a type described in this section is entered into and is binding upon a master association, then the master association, and not any association, may terminate the contract, lease, or license under the procedures in this section. This section does not apply to (i) any lease the termination of which would terminate the common interest community or, (ii) a proprietary lease, or (iii) in the case of a cooperative, a mortgage, or contract for deed encumbering all real estate constituting the common interest community.

Sec. 19. Minnesota Statutes 1998, section 515B.3-106, is amended to read:

**515B.3-106 BYLAWS; ANNUAL REPORT.**

(a) A common interest community shall have bylaws which comply with this chapter and the requirements of the statute under which the association is incorporated. The bylaws and any amendments may be recorded, but need not be recorded to be effective unless so provided in the bylaws.

(b) The bylaws shall provide that, in addition to any statutory requirements:

(1) A meeting of the members shall be held at least once each year, and a specified officer of the association shall give notice of the meeting as provided in section 515B.3-108.

(2) An annual report shall be prepared by the association and a copy of the report shall be provided to each unit owner at or prior to the annual meeting.

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(c) The annual report shall contain at a minimum:

(1) a statement of any capital expenditures in excess of two percent of the current budget or \$5,000, whichever is greater, approved by the association for the current fiscal year or succeeding two fiscal years;

(2) a statement of the balance in any reserve or replacement fund;

(3) a copy of the statement of revenues and expenses for the association's last fiscal year, and a balance sheet as of the end of said fiscal year;

(4) a statement of the status of any pending litigation or judgments to which the association is a party;

(5) a statement detailed description of the insurance coverage provided by the association including a statement as to which, if any, of the items referred to in section 515B.3-113, subsection (b), are insured by the association; and

(6) a statement of the total past due assessments on all units, current as of not more than 60 days prior to the date of the meeting.

Sec. 20. Minnesota Statutes 1998, section 515B.3-110, is amended to read:

**515B.3-110 VOTING; PROXIES.**

(a) At any meeting of the association an owner or the holder of the owner's proxy shall be entitled to cast the vote which is allocated to the unit. If there is more than one owner of a unit, only one of the owners may cast the vote. If the owners of a unit fail to agree as to who shall cast the vote, the vote shall not be cast.

(b) If permitted by the articles or bylaws, votes allocated to a unit may be cast pursuant to a proxy executed by the unit owner entitled to cast the vote for that unit. The board may specify the form of proxy and proxy rules, consistent with law.

(c) The entire vote on any single issue (except the election of directors), may be by mailed ballots, subject to (i) any prohibition or requirement contained in the articles of incorporation, bylaws, or declaration and (ii) any requirements of the statute under which the association is created. Such a vote shall have the force and effect of a vote taken at a meeting; provided, that the total votes cast are at least equal to the votes required for a quorum. The board shall set a voting period within which the ballots must be returned, which period shall be not less than ten nor more than 30 days after the date of mailing or hand delivery of the ballots to the owners. The board of directors shall provide written notice of the results of the vote to the members within 30 days after the expiration of the voting period. All requirements in this chapter, the declaration or the bylaws for a meeting of the members, or being present in person, shall be deemed satisfied by a vote taken by mail in compliance with the requirements of this section.

(d) The articles of incorporation or bylaws may authorize class voting by unit owners for directors or on specified issues affecting the class. Class voting may only be used to address operational, physical, or administrative differences within the common interest community. A declarant shall not use class voting to evade any limit imposed on declarants by this chapter and units shall not constitute a class because they are owned by a declarant.

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(e) The declaration or bylaws may provide that votes on specified matters affecting the common interest community be cast by lessees or secured parties rather than unit owners; provided that (i) the provisions of subsections (a), (b), and (c) apply to those persons as if they were unit owners; (ii) unit owners who have so delegated their votes to other persons may not cast votes on those specified matters; (iii) lessees or secured parties are entitled to notice of meetings, access to records, and other rights respecting those matters as if they were unit owners, and (iv) the lessee or secured party has filed satisfactory evidence of its interest with the secretary of the association prior to the meeting. Unit owners must also be given notice, in the manner provided in section 515B.3-108(b), of meetings at which lessees or secured parties are entitled to vote.

(e) (f) No votes allocated to a unit owned by the association may be cast nor counted toward a quorum.

Sec. 21. Minnesota Statutes 1998, section 515B.3-113, is amended to read:

515B.3-113 **INSURANCE.**

(a) Commencing not later than the time of the first conveyance of a unit to a unit owner other than a declarant, the association shall maintain, to the extent reasonably available:

(1) subject to subsection (b), property insurance (i) on the common elements and, in a planned community, also on property that must become common elements, (ii) for broad form covered causes of loss, and (iii) in a total amount of not less than the full insurable replacement cost of the insured property, less deductibles, at the time the insurance is purchased and at each renewal date, exclusive of items normally excluded from property policies; and

(2) commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the property in an amount, if any, specified by the common interest community instruments or otherwise deemed sufficient in the judgment of the board, insuring the board, the association, the management agent, and their respective employees, agents and all persons acting as agents. The declarant shall be included as an additional insured in its capacity as a unit owner or board member. The unit owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use or management of the common elements. The insurance shall cover claims of one or more insured parties against other insured parties.

(b) In the case of a common interest community that contains units, or structures within units, sharing or having contiguous walls, siding or roofs, the insurance maintained under subsection (a)(1) shall include the those units, or structures within those units, and the common elements. The insurance need not cover improvements and betterments to the units installed by unit owners, but the following items within the units: (i) ceiling or wall finishing materials, (ii) floor coverings, (iii) cabinetry, (iv) finished millwork, (v) electrical or plumbing fixtures serving a single unit, (vi) built-in appliances, or (vii) other improvements and betterments, regardless of when installed. If any improvements and betterments are covered, any increased cost may be assessed by the association against the units affected. The association may, in the case of a claim for damage to a unit or units, (i) pay the deductible amount as a common expense, (ii) assess the deduct-

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ible amount against the units affected in any reasonable manner, or (iii) require the unit owners of the units affected to pay the deductible amount directly.

(c) If the insurance described in subsections (a) and (b) is not reasonably available, the association shall promptly cause notice of that fact to be hand delivered or sent prepaid by United States mail to all unit owners. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance it considers appropriate to protect the association, the unit owners or officers, directors or agents of the association.

(d) Insurance policies carried pursuant to subsections (a) and (b) shall provide that:

(1) each unit owner and secured party is an insured person under the policy with respect to liability arising out of the unit owner's interest in the common elements or membership in the association;

(2) the insurer waives its right to subrogation under the policy against any unit owner of the condominium or members of the unit owner's household and against the association and members of the board of directors;

(3) no act or omission by any unit owner or secured party, unless acting within the scope of authority on behalf of the association, shall void the policy or be a condition to recovery under the policy; and

(4) if at the time of a loss under the policy there is other insurance in the name of a unit owner covering the same property covered by the policy, the association's policy is primary insurance.

(e) Any loss covered by the property policy under subsection (a)(1) shall be adjusted by and with the association. The insurance proceeds for that loss shall be payable to the association, or to an insurance trustee designated by the association for that purpose. The insurance trustee or the association shall hold any insurance proceeds in trust for unit owners and secured parties as their interests may appear. The proceeds shall be disbursed first for the repair or restoration of the damaged common elements and units. Unit owners and secured parties are not entitled to receive any portion of the proceeds unless there is a surplus of proceeds after the common elements and units have been completely repaired or restored or the common interest community is terminated.

(f) Unit owners may obtain insurance for personal benefit in addition to insurance carried by the association.

(g) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance, upon request, to any unit owner or secured party. The insurance may not be canceled until 60 days after notice of the proposed cancellation has been mailed to the association, each unit owner and each secured party for an obligation to whom certificates of insurance have been issued.

(h) Any portion of the common interest community which is damaged or destroyed as the result of a loss covered by the association's insurance shall be promptly repaired or replaced by the association unless (i) the common interest community is terminated and the association votes not to repair or replace all or part thereof, (ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (iii) 80 percent of the unit owners, including every unit owner and holder of a first mortgage on a

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unit or assigned limited common element which will not be rebuilt, vote not to rebuild. Subject to subsection (b), the cost of repair or replacement of the common elements in excess of insurance proceeds and reserves shall be paid as a common expense, and the cost of repair of a unit in excess of insurance proceeds shall be paid by the respective unit owner.

(i) If less than the entire common interest community is repaired or replaced, (i) the insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the common interest community, (ii) the insurance proceeds attributable to units and limited common elements which are not rebuilt shall be distributed to the owners of those units, including units to which the limited common elements were assigned, and the secured parties of those units, as their interests may appear, and (iii) the remainder of the proceeds shall be distributed to all the unit owners and secured parties as their interests may appear in proportion to their common element interest in the case of a condominium or in proportion to their common expense liability in the case of a planned community or cooperative.

(j) If the unit owners and holders of first mortgages vote not to rebuild a unit, that unit's entire common element interest, votes in the association, and common expense liability are automatically reallocated upon the vote as if the unit had been condemned under section 515B.1-107, and the association shall promptly prepare, execute and record an amendment to the declaration reflecting the reallocations. Notwithstanding the provisions of this subsection, if the common interest community is terminated, insurance proceeds not used for repair or replacement shall be distributed in the same manner as sales proceeds pursuant to section 515B.2-119.

(k) The provisions of this section may be varied or waived in the case of a common interest community in which all units are restricted to nonresidential use.

Sec. 22. Minnesota Statutes 1998, section 515B.3-115, is amended to read:

**515B.3-115 ASSESSMENTS FOR COMMON EXPENSES.**

(a) The obligation of a unit owner to pay common expense assessments shall be as follows:

(1) If a common expense assessment has not been levied, the declarant shall pay all accrued expenses of the common interest community.

(2) If a common expense assessment has been levied, all unit owners including the declarant shall pay the assessments allocated to their units, ~~except as otherwise permitted by this section. Subject to the requirements of this section, a declarant may institute one, but not both, of the alternative assessment programs described in subsections (a)(1) and (a)(2), whereby:~~ subject to subsection (b).

(1) if a common expense assessment has been levied, the purchaser shall pay when due only the common expenses up to a specified limit guaranteed by the declarant, and the declarant shall pay all common expenses in excess of the limit; or

(2) if a common expense assessment has been levied in a planned community, the declarant may limit its liability for assessments on units owned by it to 25 percent or any greater percentage of any assessment levied until such time as a certificate of occupancy is issued by the municipality in which the common interest community is located for the unit or units owned by the declarant.

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(3) Notwithstanding subsections (a)(1), (a)(2), and (b), if the association maintains the exteriors of the buildings constituting or contained within the units, that part of any assessment that is allocated to replacement reserves referred to in section 515B.3-114 shall be fully levied against a unit, including any unit owned by a declarant, on the earlier of substantial completion of the exterior of (i) the building containing the unit or (ii) any building located within the unit.

(b) The alternative assessment programs described in subsection (a)(1) or (2), shall be permitted only by including in the declaration, and the disclosure statement required by section 515B.4-102, provisions authorizing declarant to establish an alternative assessment program and a detailed explanation of the program, including at a minimum, as applicable, (i) the maximum amount of any guaranty on a monthly and aggregate basis with respect to each type of unit, (ii) the minimum and maximum duration of the alternative assessment program, (iii) the time when the declarant's authority to commence the alternative assessment program expires, which shall be no later than the expiration of any period of declarant control, and (iv) a statement that the alternative assessment program will have no effect on the level of services for items set forth in the association's budget, or a statement that no assurances are made in those regards. Subject to subsection (a)(3), if the declaration so provides, a declarant's liability, and the assessment lien, for assessments, other than replacement reserves, on any unit owned by the declarant may be limited to 25 percent or any greater percentage of any assessment levied, until the unit or any building located in it is substantially completed. Substantial completion shall be evidenced by a certificate of occupancy in any jurisdiction that issues the certificate.

(c) Notwithstanding any disclosure in the declaration or disclosure statement, the declarant shall give the unit owners at least 60 days' prior notice of the termination of the alternative assessment program, subject to any minimum duration described in the declaration and disclosure statement.

(d) Any alternative assessment program instituted by declarant shall not affect declarant's obligation to fund the reserves disclosed in the association's budget included in the disclosure statement or otherwise approved by the association.

(e) Any representations or agreements made by a declarant with respect to an alternative assessment program shall be enforceable against declarant by any unit owner or by the association.

(f) After an assessment has been levied by the association, assessments shall be levied at least annually, based upon a budget approved at least annually by the association.

(g) (d) Except as modified by subsections (a)(1) and (2), (h), (i) and (j), all common expenses shall be assessed against all the units in accordance with the allocations established by the declaration pursuant to section 515B.2-108.

(h) (e) Unless otherwise required by the declaration:

(1) any common expense associated with the maintenance, repair, or replacement of a limited common element shall be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;

(2) any common expense or portion thereof benefiting fewer than all of the units may be assessed exclusively against the units benefited, equally, or in any other proportion the declaration provides;

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(3) the costs of insurance may be assessed in proportion to risk or coverage, and the costs of utilities may be assessed in proportion to usage;

(4) reasonable attorneys fees and costs incurred by the association in connection with (i) the collection of assessments and, (ii) the enforcement of this chapter, the articles, bylaws, declaration, or rules and regulations, against a unit owner, may be assessed against the unit owner's unit; and

(5) fees, charges, late charges, fines and interest may be assessed as provided in section 515B.3-116(a).

(f) Assessments levied under section 515B.3-116 to pay a judgment against the association may be levied only against the units in the common interest community at the time the judgment was entered, in proportion to their common expense liabilities.

(g) If any damage to the common elements or another unit is caused by the act or omission of any unit owner, or occupant of a unit, or their invitees, the association may assess the costs of repairing the damage exclusively against the unit owner's unit to the extent not covered by insurance.

(h) Subject to any shorter period specified by the declaration or bylaws, if any installment of an assessment becomes more than 60 days past due, then the association may, upon ten days' written notice to the unit owner, declare the entire amount of the assessment immediately due and payable in full.

(i) If common expense liabilities are reallocated for any purpose authorized by this chapter, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.

Sec. 23. Minnesota Statutes 1998, section 515B.3-116, is amended to read:

#### 515B.3-116 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 due. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due. Unless the declaration otherwise provides, fees, charges, late charges, fines and interest charges pursuant to section 515B.3-102(a)(10), (11) and (12) are liens, and 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 (i) liens and encumbrances recorded before the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes, or takes subject to, (ii) any first mortgage on encumbering the fee simple interest in the unit, or, in a cooperative, any first security interest encumbering only the unit owner's interest in the unit, and (iii) liens for real estate taxes and other governmental assessments or charges against the unit. If a first mortgage on a unit is foreclosed, the first mortgage was recorded after June 1, 1994, and no owner redeems during the owner's period of redemption provided by chapter 580, 581, or 582, the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage shall take title to the unit subject to a lien in favor of the association for unpaid assessments for common expenses levied pursuant to section 515B.3-115(a), (h)(1) to (3), (i), and (l) which became due, without acceleration, during the six months immediately preceding the first day following the end of the owner's period of redemp-

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tion. If a first security interest encumbering a unit owner's interest in a cooperative unit which is personal property is foreclosed, the secured party or the purchaser at the sale shall take title to the unit subject to unpaid assessments for common expenses levied pursuant to section 515B.3-115(a), (h)(1) to (3), (i), and (l) which became due, without acceleration, during the six months immediately preceding the first day following either the date of sale pursuant to section 336.9-504 or the date on which the obligation of the unit owner is discharged pursuant to section 336.9-505. This subsection shall not affect the priority of mechanics' liens.

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

(d) Proceedings to enforce an assessment lien shall be instituted within three years after the last installment of the assessment becomes payable, or shall be barred.

(e) The unit owner of a unit at the time an assessment is due shall be personally liable to the association for payment of the assessment levied against the unit. If there are multiple owners of the unit, they shall be jointly and severally liable.

(f) This section does not prohibit actions to recover sums for which subsection (a) creates a lien nor prohibit an association from taking a deed in lieu of foreclosure. The commencement of an action to recover the sums is not an election of remedies if it is dismissed before commencement of foreclosure of the lien provided for by this section.

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

(h) The association's lien may be foreclosed as provided in this subsection.

(1) In a condominium or planned community, the association's lien may be foreclosed in a like manner as a mortgage containing a power of sale pursuant to chapter 580, or by action pursuant to chapter 581. The association shall have a power of sale to foreclose the lien pursuant to chapter 580.

(2) In a cooperative whose unit owners' interests are real estate, the association's lien shall be foreclosed in a like manner as a mortgage on real estate as provided in paragraph (1).

(3) In a cooperative whose unit owners' interests in the units are personal property, the association's lien shall be foreclosed in a like manner as a security interest under article 9 of chapter 336. In any disposition pursuant to section 336.9-504 or retention pursuant to section 336.9-505, the rights of the parties shall be the same as those provided by law, except (i) notice of sale, disposition, or retention shall be served on the unit owner 90 days prior to sale, disposition, or retention, (ii) the association shall be entitled to its reasonable costs and attorney fees not exceeding the amount provided by section 582.01, subdivision 1a, (iii) the amount of the association's lien shall be deemed to be adequate consideration for the unit subject to disposition or retention, notwithstanding the value of the unit, and (iv) the notice of sale, disposition, or retention shall contain the following statement in capital letters with the name of the association or secured party filled in:

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"THIS IS TO INFORM YOU THAT BY THIS NOTICE (fill in name of association or secured party) HAS BEGUN PROCEEDINGS UNDER MINNESOTA STATUTES, CHAPTER 515B, TO FORECLOSE ON YOUR INTEREST IN YOUR UNIT FOR THE REASON SPECIFIED IN THIS NOTICE. YOUR INTEREST IN YOUR UNIT WILL TERMINATE 90 DAYS AFTER SERVICE OF THIS NOTICE ON YOU UNLESS BEFORE THEN:

(a) THE PERSON AUTHORIZED BY (fill in the name of association or secured party) AND DESCRIBED IN THIS NOTICE TO RECEIVE PAYMENTS RECEIVES FROM YOU:

(1) THE AMOUNT THIS NOTICE SAYS YOU OWE; PLUS

(2) THE COSTS INCURRED TO SERVE THIS NOTICE ON YOU; PLUS

(3) \$500 TO APPLY TO ATTORNEYS FEES ACTUALLY EXPENDED OR INCURRED; PLUS

(4) ANY ADDITIONAL AMOUNTS FOR YOUR UNIT BECOMING DUE TO (fill in name of association or secured party) AFTER THE DATE OF THIS NOTICE; OR

(b) YOU SECURE FROM A DISTRICT COURT AN ORDER THAT THE FORECLOSURE OF YOUR RIGHTS TO YOUR UNIT BE SUSPENDED UNTIL YOUR CLAIMS OR DEFENSES ARE FINALLY DISPOSED OF BY TRIAL, HEARING, OR SETTLEMENT. YOUR ACTION MUST SPECIFICALLY STATE THOSE FACTS AND GROUNDS THAT DEMONSTRATE YOUR CLAIMS OR DEFENSES.

IF YOU DO NOT DO ONE OR THE OTHER OF THE ABOVE THINGS WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE, YOUR OWNERSHIP RIGHTS IN YOUR UNIT WILL TERMINATE AT THE END OF THE PERIOD, YOU WILL LOSE ALL THE MONEY YOU HAVE PAID FOR YOUR UNIT, YOU WILL LOSE YOUR RIGHT TO POSSESSION OF YOUR UNIT, YOU MAY LOSE YOUR RIGHT TO ASSERT ANY CLAIMS OR DEFENSES THAT YOU MIGHT HAVE, AND YOU WILL BE EVICTED. IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, CONTACT AN ATTORNEY IMMEDIATELY."

(4) In any foreclosure pursuant to chapter 580, 581, or 582, the rights of the parties shall be the same as those provided by law, except (i) the period of redemption for unit owners shall be six months from the date of sale or a lesser period authorized by law, (ii) in a foreclosure by advertisement under chapter 580, the foreclosing party shall be entitled to costs and disbursements of foreclosure, and attorneys fees ~~in the amount provided by~~ authorized by the declaration or bylaws, notwithstanding the provisions of section 582.01, subdivision subdivisions 1 and 1a, (iii) in a foreclosure by action under chapter 581, the foreclosing party shall be entitled to costs and disbursements of foreclosure and attorneys fees as the court shall determine, and (iv) the amount of the association's lien shall be deemed to be adequate consideration for the unit subject to foreclosure, notwithstanding the value of the unit.

(i) If a holder of a sheriff's certificate of sale, prior to the expiration of the period of redemption, pays any past due or current assessments, or any other charges lienable as assessments, with respect to the unit described in the sheriff's certificate, then the amount paid shall be a part of the sum required to be paid to redeem under section 582.03.

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(j) In a cooperative, following foreclosure, the association may bring an action for unlawful detainer against the unit owner and any persons in possession of the unit, and in that case section 504.02 shall not apply.

(k) An association may assign its lien rights in the same manner as any other secured party.

Sec. 24. Minnesota Statutes 1998, section 515B.3-121, is amended to read:

**515B.3-121 ACCOUNTING CONTROLS.**

(a) Subject to any additional or greater requirements set forth in the declaration or bylaws, a review of the association's financial statements shall be made at the end of the association's fiscal year, unless prior to ~~30~~ 60 days after the end of that fiscal year, at a meeting or by mailed ballot, unit owners of units to which at least 30 percent of the votes in the association are allocated vote to waive the review requirement for that fiscal year. A waiver vote shall not apply to more than one fiscal year, and shall not affect the board's authority to cause a review or audit to be made. The reviewed financial statements shall be delivered to all members of the association within ~~120~~ 180 days after the end of the association's fiscal year.

(b) The review shall be made by a licensed, independent certified public accountant. A licensed, independent certified public accountant means an accountant who (i) is not an employee of the declarant or its affiliates, (ii) is professionally independent of the control of the declarant or its affiliates, (iii) is licensed by the Minnesota state board of accountancy and (iv) satisfies the tests for independence as promulgated by the American Institute of Certified Public Accountants.

(c) Where the financial statements are prepared by an independent certified public accountant, they shall be prepared in accordance with generally accepted accounting principles as established from time to time by the American Institute of Certified Public Accountants, and shall be reviewed in accordance with standards for accounting and review services. In such case, the financial statements shall be presented on the full accrual basis using an accounting format that separates operating activity from replacement reserve activity.

Sec. 25. Minnesota Statutes 1998, section 515B.4-101, is amended to read:

**515B.4-101 APPLICABILITY; DELIVERY OF DISCLOSURE STATEMENT.**

(a) Sections 515B.4-101 through 515B.4-118 apply to all units subject to this chapter, except as provided in subsection (c) or as modified or waived by agreement of purchasers of a unit which is restricted to nonresidential use.

(b) ~~Subject to subsection~~ subsections (a) and (c), a declarant who offers a unit to a purchaser shall deliver to the purchaser a current disclosure statement which complies with the requirements of section 515B.4-102. The disclosure statement shall include any material amendments to the disclosure statement made prior to the conveyance of the unit to the purchaser. The declarant shall be liable to the purchaser to whom it delivered the disclosure statement for any false or misleading statement set forth therein or for any omission of a material fact therefrom.

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(c) Neither a disclosure statement nor a resale disclosure certificate need be prepared or delivered in the case of:

- (1) a gratuitous transfer;
- (2) a transfer pursuant to a court order;
- (3) a transfer to a government or governmental agency;
- (4) a transfer to a secured party by foreclosure or deed in lieu of foreclosure;
- (5) an option to purchase a unit, until exercised;
- (6) a transfer to a person who "controls" or is "controlled by," the grantor as those terms are defined with respect to a declarant under section 515B.1-103(2);
- (7) a transfer by inheritance;
- (8) a transfer of special declarant rights under section 515B.3-104; or
- (9) a transfer in connection with a change of form of common interest community under section 515B.2-123.

(d) A purchase agreement for a unit shall contain the following notice: "The following notice is required by Minnesota Statutes. The purchaser is entitled to receive a disclosure statement or resale disclosure certificate, as applicable. The disclosure statement or resale disclosure certificate contains important information regarding the common interest community and the purchaser's cancellation rights."

Sec. 26. Minnesota Statutes 1998, section 515B.4-102, is amended to read:

**515B.4-102 DISCLOSURE STATEMENT; GENERAL PROVISIONS.**

- (a) A disclosure statement shall fully and accurately disclose:
- (1) the name and, if available, the number of the common interest community;
  - (2) the name and principal address of the declarant;
  - (3) the number of units in the common interest community and a statement that the common interest community is either a condominium, cooperative, or planned community;
  - (4) a general description of the common interest community, including, to the extent possible at a minimum, (i) the types and number of buildings, (ii) the number of dwellings per building, (iii) the type of construction, (iv) whether the common interest community involves new construction or rehabilitation, (v) whether any building was wholly or partially occupied, for any purpose, before it was added to the common interest community and the nature of the occupancy, and (vi) a general description of any roads, trails, or utilities that are located on the common elements and that the association or a master association will be required to maintain;
  - (5) declarant's schedule of commencement and completion of construction of any buildings and other improvements that the declarant is obligated to build pursuant to section 515B.4-117;
  - (6) any expenses or services, not reflected in the budget, that the declarant pays or provides, which may become a common expense of ~~the association~~; the projected com-

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mon expense attributable to each of those expenses or services for the association; and a detailed explanation of any alternative declarant's limited assessment program established pursuant to liability under section 515B.3-115, subsection (b) and (d);

(7) any initial or special fee due from the purchaser to the declarant or the association at closing, together with a description of the purpose and method of calculating the fee;

(8) identification of any liens, defects, or encumbrances which will continue to affect the title to a unit or to any real property owned by the association after the contemplated conveyance;

(9) a description of any financing offered or arranged by the declarant;

(10) a statement as to whether ~~the common interest community has received~~ application has been made for any final project approvals for the common interest community from the Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), Department of Housing and Urban Development (HUD) or Department of Veterans Affairs (VA), and which, if any, such final approvals have been received;

(11) the terms of any warranties provided by the declarant, including copies of chapter 327A, and sections 515B.4-112 through 515B.4-115, and a statement of any limitations on the enforcement of warranties or on damages;

(12) a statement that: (i) ~~within 15 ten~~ within 15 ten days after the receipt of a disclosure statement, a purchaser may cancel any contract for the purchase of a unit from a declarant; provided, that the right to cancel terminates upon the purchaser's voluntary acceptance of a conveyance of the unit from the declarant; (ii) if a purchaser receives a disclosure statement more than ~~15 ten~~ 15 ten days before signing a purchase agreement, the purchaser cannot cancel the purchase agreement; and (iii) if a declarant obligated to deliver a disclosure statement fails to deliver a disclosure statement which substantially complies with this chapter to a purchaser to whom a unit is conveyed, the declarant shall be liable to the purchaser as provided in section 515B.4-106(d);

(13) a statement disclosing to the extent of the declarant's or an affiliate of a declarant's actual knowledge, after reasonable inquiry, any unsatisfied judgments or lawsuits to which the association is a party, and the status of those lawsuits which are material to the common interest community or the unit being purchased;

(14) a statement that any earnest money paid in connection with the purchase of a unit ~~will be held in an escrow account until closing, or until the termination of the purchase agreement, and (i) describing the conditions under which earnest money will be held in and disbursed from the escrow account, as set forth in section 515B.4-109, (ii) that the earnest money will be returned to the purchaser if the purchaser cancels the contract pursuant to section 515B.4-106, together with and (iii) setting forth the name and address of the escrow agent;~~

(15) a detailed description of the insurance coverage provided by the association for the benefit of unit owners, including any fixtures, decorating items or construction a statement as to which, if any, of the items within a unit which are not required to be referred to in section 515B.3-113, subsection (b), are insured by the association;

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(16) any current or expected fees or charges, other than assessments for common expenses, to be paid by unit owners for the use of the common elements or any other improvements or facilities;

(17) the financial arrangements, including any contingencies, which have been made to provide for completion of all improvements that the declarant is obligated to build pursuant to section 515B.4-118, or a statement that no such arrangements have been made;

(18) in a cooperative: (i) whether the unit owners will be entitled for federal and state tax purposes, to deduct payments made by the association for real estate taxes and interest paid to the holder of a security interest encumbering the cooperative; and (ii) a statement as to the effect on the unit owners if the association fails to pay real estate taxes or payments due the holder of a security interest encumbering the cooperative;

(19) a statement: (i) that real estate taxes for the unit or any real property owned by the association are not delinquent or, if there are delinquent real estate taxes, describing the property for which the taxes are delinquent, stating the amount of the delinquent taxes, interest and penalties, and stating the years for which taxes are delinquent; and (ii) setting forth the amount of the real estate taxes, including the amount of any special assessment certified for payment with the real estate taxes, due and payable with respect to the unit for which the disclosure statement is given in the year in which the disclosure statement is given, if real estate taxes have been separately assessed against the unit;

(20) if the association or the purchaser of the unit will be a member of a master association, a statement to that effect, and all of the following information with respect to the master association: (i) a copy of the declaration, if any, (other than any CIC plat), the articles of incorporation, bylaws, and rules and regulations for the master association, together with any amendments thereto; (ii) the name, address and general description of the master association, including a general description of any other association, unit owners, or other persons which are or may become members; ~~and a general description of the relationship between the master association and its members;~~ (iii) a description of any non-residential use permitted on any property subject to the master association; (iv) a statement as to the estimated maximum number of associations, unit owners or other persons which may become members of the master association, and the degree and period of control of the master association by a declarant or other person; (v) a description of, ~~and the schedule of commencement and completion of,~~ any buildings and other improvements that the master association, a declarant or other person, as the case may be, is obligated to build in which the members of the master association have or may have an interest any facilities intended for the benefit of the members of the master association and not located on property owned or controlled by a member; (vi) the financial arrangements, including any contingencies, which have been made to provide for completion of the buildings and improvements facilities referred to in subsection (v), or a statement that no arrangements have been made; (vii) any current balance sheet of the master association, which shall include with respect to the master association those items set forth in section 515B.4-102(a)(23)(i) to (iv), and a projected or current annual budget, as applicable, which budget shall include with respect to the master association those items in paragraph (23), clauses (i) through (iv); (viii) a description of any expenses or services provided by the master association to its members and any current or projected assessments attributable to the members of the master association for the services not reflected in the

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budget, paid for or provided by a declarant or a person executing the master declaration, which may become an expense of the master association in the future; (ix) a description of any powers delegated to and accepted by the master association pursuant to section 515B.2-121(e)(f)(2); (x) identification of any liens, defects or encumbrances ~~on or affecting~~ that will continue to affect title to property in which the members of the master association have or may have any interest owned or operated by the master association for the benefit of its members; (xi) the terms of any warranties provided by any person for construction of buildings or other improvements facilities in which the members of the master association have or may have an interest by virtue of membership in the master association, and any known defects in the buildings or other improvements facilities which would violate the standards described in section 515B.4-112(b); (xii) a statement disclosing, to the extent of the declarant's knowledge, after inquiry of the master association, any unsatisfied judgments or lawsuits to which the master association is a party, and the status of those lawsuits which are material to the master association; (xiii) a description of any insurance coverage provided for the benefit of its members by the master association; and (xiv) any current or expected fees or charges, other than assessments by the master association, to be paid by members of the master association for the use of any improvements, facilities or amenities in which they have or may have an interest intended for the benefit of the members;

(21) a statement as to whether the unit will be substantially completed at the time of conveyance to a purchaser, and if not substantially completed, who is responsible to complete and pay for the construction of the unit;

(22) a copy of the declaration and any amendments thereto, (exclusive of the CIC plat), any other recorded covenants, conditions restrictions, and reservations affecting the common interest community; the articles of incorporation, bylaws and any rules or regulations of the association; any agreement excluding or modifying any implied warranties; any agreement reducing the statute of limitations for the enforcement of warranties; any contracts or leases to be signed by purchaser at closing; and a brief narrative description of any contracts or leases that are or may be subject to cancellation by the association under section 515B.3-105; and

(23) any current balance sheet for the association; a projected annual budget for the association for the year in which the first unit is conveyed to a purchaser, and thereafter the current annual budget of the association; and a statement identifying the party responsible for the preparation of the budget. The budget shall include, without limitation: (i) a statement of the amount included in the budget as a reserve for maintenance, repair and replacement; (ii) a statement of any other reserves; (iii) the projected common expense for each category of expenditures for the association; and (iv) the projected monthly common expense assessment for each type of unit.

(b) A declarant shall promptly amend the disclosure statement to reflect any material change in the information required by this chapter.

(c) The master association, within ten days after a request by a declarant, or any holder of declarant rights, or the authorized representative of any of them, shall furnish the information required to be provided by subsection (a)(20). A declarant or other person who provides information pursuant to subsection (a)(20) is not liable to the purchaser for any erroneous information if the declarant or other person: (i) is not an affiliate of or related in any way to a person authorized to appoint the master association board pursuant

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to section 515B.2-121(h)(c)(3), and (ii) has no actual knowledge that the information is incorrect.

Sec. 27. Minnesota Statutes 1998, section 515B.4-106, is amended to read:

**515B.4-106 PURCHASER'S RIGHT TO CANCEL.**

(a) A person required to deliver a disclosure statement pursuant to section 515B.4-101(b) shall provide at least one of the purchasers of the unit with a copy of the disclosure statement and all amendments thereto before conveyance of the unit. If a purchaser is not given a disclosure statement more than ~~15~~ ten days before execution of the purchase agreement, the purchaser may, before conveyance, cancel the purchase agreement within ~~15~~ ten days after first receiving the disclosure statement. If a purchaser is given the disclosure statement more than ~~15~~ ten days before execution of a the purchase agreement for the unit, the purchaser may not cancel the purchase agreement pursuant to this section. Except as expressly provided in this chapter, the ten-day rescission period cannot be waived.

(b) If an amendment to the disclosure statement materially and adversely affects a purchaser, then the purchaser shall have 15 days after delivery of the amendment to cancel the purchase agreement in accordance with this section.

(c) If a purchaser elects to cancel a purchase agreement pursuant to this section, the purchaser may do so by giving notice thereof pursuant to section 515B.1-115. Cancellation is without penalty, and all payments made by the purchaser before cancellation shall be refunded promptly. Notwithstanding anything in this section to the contrary, the purchaser's cancellation rights under this section terminate upon the purchaser's acceptance of a conveyance of the unit.

(d) If a declarant obligated to deliver a disclosure statement fails to deliver to the purchaser a disclosure statement which substantially complies with this chapter, the declarant shall be liable to the purchaser in the amount of \$1,000, in addition to any damages or other amounts recoverable under this chapter or otherwise. Any action brought under this subsection shall be commenced within the time period specified in section 515B.4-115, subsection (a).

Sec. 28. Minnesota Statutes 1998, section 515B.4-107, is amended to read:

**515B.4-107 RESALE OF UNITS.**

(a) In the event of a resale of a unit by a unit owner other than a declarant, unless exempt under section 515B.4-101(c), the unit owner shall furnish to a purchaser, before execution of any purchase agreement for a unit or otherwise before conveyance, the following documents relating to the association or to the master association, if applicable:

(1) copies of the declaration (other than any CIC plat), the articles of incorporation and bylaws, any rules and regulations, and any amendments thereto;

(2) the organizational and operating documents relating to the master association, if any; and

(3) a resale disclosure certificate from the association dated not more than 90 days prior to the date of the purchase agreement or the date of conveyance, whichever is earlier, containing the information set forth in subsection (b).

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(b) The resale disclosure certificate shall contain the following information:

(1) a statement disclosing any right of first refusal or other restraint on the free alienability of the unit contained in the declaration, articles of incorporation, bylaws, rules and regulations, or any amendment thereof;

(2) a statement setting forth the amount of the monthly installments of common expense assessments, including special assessments, if any, and the amount of any due and unpaid regular or special assessments, fines or other charges payable with respect to the unit;

(i) the installments of annual common expense assessments payable with respect to the unit, and the payment schedule;

(ii) the installments of special common expense assessments, if any, payable with respect to the unit, and the payment schedule; and

(iii) any plan approved by the association for levying certain common expense assessments against fewer than all the units pursuant to section 515B.3-115, subsection (h), and the amount and payment schedule for any such common expenses payable with respect to the unit;

(3) a statement of any fees or charges other than assessments payable by unit owners;

(4) a statement of any ~~capital~~ extraordinary expenditures approved by the association, and not yet assessed, for the current and two succeeding fiscal years;

(5) a statement of the amount of any reserves for maintenance, repair or replacement and of any portions of those reserves designated by the association for any specified projects or uses;

(6) the most recent regularly prepared balance sheet and income and expense statement of the association;

(7) the current budget of the association;

(8) a statement of any unsatisfied judgments against the association and the status of any pending suits in which the association is party;

(9) a detailed description of the insurance coverage provided for the benefit of unit owners, including ~~any fixtures, decorating items or construction items within a unit which are not required to be a statement as to which, if any, of the items referred to in section 515B.3-113, subsection (b), are insured by the association;~~

(10) a statement as to whether the board has notified the unit owner (i) that any alterations or improvements to the unit or to the limited common elements assigned thereto violate any provision of the declaration or (ii) that the unit is in violation of any governmental statute, ordinance, code or regulation; ~~and~~

(11) a statement of the remaining term of any leasehold estate affecting the common interest community and the provisions governing any extension or renewal thereof; and

(12) any other matters affecting the unit or the unit owner's obligations with respect to the unit which the association deems material.

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(c) If the association is subject to a master association to which has been delegated the association's powers under section 515B.3-102(a)(2), then the financial information required to be disclosed under subsection (b) may be disclosed on a consolidated basis.

(d) The association, within ten days after a request by a unit owner, or the unit owner's authorized representative, shall furnish the certificate required in subsection (a). The association may charge a reasonable fee for furnishing the certificate and any association documents related thereto. A unit owner providing a certificate pursuant to subsection (a) is not liable to the purchaser for any erroneous information provided by the association and included in the certificate.

(e) A purchaser is not liable for any unpaid common expense assessments, including special assessments, if any, not set forth in the certificate required in subsection (a). A purchaser is not liable for the amount by which the annual or special assessments exceed the amount of annual or special assessments stated in the certificate for assessments payable in the year in which the certificate was given, except to the extent of any increases subsequently approved in accordance with the declaration or bylaws. A unit owner is not liable to a purchaser for the failure of the association to provide the certificate, or a delay by the association in providing the certificate in a timely manner.

Sec. 29. Minnesota Statutes 1998, section 515B.4-108, is amended to read:

**515B.4-108 PURCHASER'S RIGHT TO CANCEL RESALE.**

(a) Unless a purchaser is given the information required to be delivered by section 515B.4-107 more than ~~15~~ ten days prior to the execution of the purchase agreement for the unit the purchaser may, prior to the conveyance, cancel the purchase agreement within 15 ten days after receiving the information. Except as expressly provided in this chapter, the ten-day rescission period cannot be waived.

(b) A purchaser who elects to cancel a purchase agreement pursuant to subsection (a), may do so by hand delivering notice thereof or mailing notice by postage prepaid United States mail to the seller or the agent. Cancellation is without penalty and all payments made by the purchaser shall be refunded promptly.

Sec. 30. Minnesota Statutes 1998, section 515B.4-111, is amended to read:

**515B.4-111 CONVERSION PROPERTY.**

(a) ~~A declarant of a common interest community containing conversion property, shall give the occupants of residential units in the conversion property notice of the conversion no later than 120 days before they are required to vacate. A unit owner of a unit occupied for residential use in a common interest community containing conversion property shall not, for a period of one year following the recording of the declaration creating the common interest community, require any occupant of the unit to vacate the unit unless the unit owner gives notice to the occupant in the manner described in this section. The notice shall be given no later than 120 days before the occupant is required to vacate the unit. The notice shall be given by sufficient as to all occupants of a unit if it is hand delivering delivered or mailing one notice to each residential unit mailed to the unit to be vacated, addressed to the occupants thereof. If the holder of the lessee's interest in the unit has given the unit owner of the building an address different than that of the unit, then the notice shall also be given to the holder of the lessee's interest at the designated address. The notice shall satisfy the following requirements:~~

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(1) The notice shall set forth generally the rights conferred by this section.

(2) The notice shall have attached to the notice intended for the holder of the lessee's interest a form of purchase agreement setting forth the terms of sale contemplated by subsection (d) and a statement of any significant restrictions on the use and occupancy of the unit to be imposed by the declarant.

(3) The notice shall state that the occupants of the residential unit may demand to be given 60 additional days before being required to vacate, if any of them, or any person residing with them, is (i) 62 years of age or older, (ii) a person with a disability as defined in section 268A.01, or (iii) a minor child on the date the notice is given. This demand must be in writing, contain reasonable proof of qualification, and be given to the declarant within 30 days after the notice of conversion is delivered or mailed.

(4) The notice shall be contained in an envelope upon which the following shall be boldly printed: "Notice of Conversion."

(b) ~~No occupant of a unit in a conversion property~~ Notwithstanding subsection (a), an occupant may be required to vacate a unit upon less than 120 days' notice, except by reason of nonpayment of rent, utilities or other monetary obligations, violations of law, waste, or conduct that disturbs other tenants' occupants' peaceful enjoyment of the premises. Nor may ~~The terms of the tenancy may not be altered during that the notice period, except that a tenant the holder of the lessee's interest or other party in possession may vacate and terminate the lease tenancy upon one month's written notice to the declarant. Nothing in this section prevents the declarant unit owner and any occupant from agreeing to an extension of the tenancy a right of occupancy on a month-to-month basis beyond the 120-day notice period, or to an earlier termination of the tenancy right of occupancy.~~

(c) No repair work or remodeling may be commenced or undertaken in the occupied units or common areas of the building during the notice period, unless reasonable precautions are taken to ensure the safety and security of the occupants.

(d) For 60 days after delivery or mailing of the notice described in subsection (a), the holder of the lessee's interest in the unit on the date the notice is mailed or delivered shall have an option to purchase that unit on the terms set forth in the purchase agreement attached to the notice. The purchase agreement shall contain no terms or provisions which violate any state or federal law relating to discrimination in housing. If the holder of the lessee's interest fails to purchase the unit during that 60-day period, the ~~declarant unit owner~~ owner may not offer to dispose of an interest in that unit during the following 180 days at a price or on terms more favorable to the offeree than the price or terms offered to the holder. This subsection does not apply to any unit in a conversion building if that unit will be restricted exclusively to nonresidential use or if the boundaries of the converted unit do not substantially conform to the boundaries of the residential unit before conversion.

(e) If a ~~declarant unit owner~~, in violation of subsection (b), conveys a unit to a purchaser for value who has no knowledge of the violation, the recording of the deed conveying the unit or, in a cooperative, the conveyance of the right to possession of the unit, extinguishes any right a holder of a lessee's interest who is not in possession of the unit may have under subsection (d) to purchase that unit, but the conveyance does not affect the right of the holder to recover damages from the ~~declarant unit owner~~ owner for a violation of subsection (d).

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(f) If a notice of conversion specifies a date by which a unit or proposed unit must be vacated or otherwise complies with the provisions of chapter 566, the notice also constitutes a notice to vacate specified by that statute.

(g) Nothing in this section permits ~~termination of a lease by a declarant a unit owner~~ to terminate a lease in violation of its terms.

(h) Failure to give notice as required by this section is a defense to an action for possession until a notice complying with this section is given and the applicable notice period terminates.

Sec. 31. Minnesota Statutes 1998, section 515B.4–115, is amended to read:

#### 515B.4–115 STATUTE OF LIMITATIONS FOR WARRANTIES.

(a) A judicial proceeding for breach of an obligation arising under section 515B.4–106(d), shall be commenced within six months after the conveyance of the unit.

(b) A judicial proceeding for breach of an obligation arising under section 515B.4–112 or 515B.4–113 shall be commenced within six years after the cause of action accrues, but the parties may agree to reduce the period of limitation to not less than two years. With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by an instrument separate from the purchase agreement signed by the purchaser.

(c) Subject to subsection (d), a cause of action under section 515B.4–112 or 515B.4–113, regardless of the purchasers lack of knowledge of the breach, accrues:

(1) as to a unit, at the earlier of the time of conveyance of the unit by the declarant to a bona fide purchaser of the unit other than an affiliate of a declarant, or the time the purchaser enters into possession of the unit; and

(2) as to each common element, the latest of (i) the time the common element is completed, (ii) the time the first unit in the ~~condominium~~ common interest community is conveyed to a bona fide purchaser, or if the common element is located on property that is additional real estate at the time the first unit therein is conveyed to a bona fide purchaser, or (iii) the termination of the period of declarant control.

(d) If a warranty explicitly extends to future performance or duration of any improvement or component of the common interest community, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

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### ARTICLE 3

Section 1. Minnesota Statutes 1998, section 47.20, subdivision 2, is amended to read:

Subd. 2. **DEFINITIONS.** For the purposes of this section the terms defined in this subdivision have the meanings given them:

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(1) "Actual closing costs" mean reasonable charges for or sums paid for the following, whether or not retained by the mortgagee or lender:

(a) Any insurance premiums including but not limited to premiums for title insurance, fire and extended coverage insurance, flood insurance, and private mortgage insurance, but excluding any charges or sums retained by the mortgagee or lender as self-insured retention.

(b) Abstracting, title examination and search, and examination of public records.

(c) The preparation and recording of any or all documents required by law or custom for closing a conventional or cooperative apartment loan.

(d) Appraisal and survey of real property securing a conventional loan or real property owned by a cooperative apartment corporation of which a share or shares of stock or a membership certificate or certificates are to secure a cooperative apartment loan.

(e) A single service charge, which includes any consideration, not otherwise specified herein as an "actual closing cost" paid by the borrower and received and retained by the lender for or related to the acquisition, making, refinancing or modification of a conventional or cooperative apartment loan, and also includes any consideration received by the lender for making a borrower's interest rate commitment or for making a borrower's loan commitment, whether or not an actual loan follows the commitment. The term service charge does not include forward commitment fees. The service charge shall not exceed one percent of the original bona fide principal amount of the conventional or cooperative apartment loan, except that in the case of a construction loan, the service charge shall not exceed two percent of the original bona fide principal amount of the loan. That portion of the service charge imposed because the loan is a construction loan shall be itemized and a copy of the itemization furnished the borrower. A lender shall not collect from a borrower the additional one percent service charge permitted for a construction loan if it does not perform the service for which the charge is imposed or if third parties perform and charge the borrower for the service for which the lender has imposed the charge.

(f) Charges and fees necessary for or related to the transfer of real or personal property securing a conventional or cooperative apartment loan or the closing of a conventional or cooperative apartment loan paid by the borrower and received by any party other than the lender.

(2) "Contract for deed" means an executory contract for the conveyance of real estate, the original principal amount of which is less than \$100,000. A commitment for a contract for deed shall include an executed purchase agreement or earnest money contract wherein the seller agrees to finance any part or all of the purchase price by a contract for deed.

(3) "Conventional loan" means a loan or advance of credit, other than a loan or advance of credit made by a credit union or made pursuant to section 334.011, to a noncorporate borrower in an original principal amount of less than \$100,000, secured by a mortgage upon real property containing one or more residential units or upon which at the time the loan is made it is intended that one or more residential units are to be constructed, and which is not insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the farmers home

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administration, and which is not made pursuant to the authority granted in subdivision 1, clause (3) or (4). The term mortgage does not include contracts for deed or installment land contracts.

(4) "Cooperative apartment loan" means a loan or advance of credit, other than a loan or advance of credit made by a credit union or made pursuant to section 334.011, to a noncorporate borrower in an original principal amount of less than \$100,000, secured by a security interest on a share or shares of stock or a membership certificate or certificates issued to a stockholder or member by a cooperative apartment corporation, which may be accompanied by an assignment by way of security of the borrower's interest in the proprietary lease or occupancy agreement in property issued by the cooperative apartment corporation and which is not insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the farmers home administration.

(5) "Cooperative apartment corporation" means a corporation or cooperative organized under chapter 308A or 317A, the shareholders or members of which are entitled, solely by reason of their ownership of stock or membership certificates in the corporation or association, to occupy one or more residential units in a building owned or leased by the corporation or association.

(6) "Forward commitment fee" means a fee or other consideration paid to a lender for the purpose of securing a binding forward commitment by or through the lender to make conventional loans to two or more credit worthy purchasers, including future purchasers, of residential units, or a fee or other consideration paid to a lender for the purpose of securing a binding forward commitment by or through the lender to make conventional loans to two or more credit worthy purchasers, including future purchasers, of apartments as defined in section 515.02 units to be created out of existing structures pursuant to the Minnesota Condominium Act chapter 515B, or a fee or other consideration paid to a lender for the purpose of securing a binding forward commitment by or through the lender to make cooperative apartment loans to two or more credit worthy purchasers, including future purchasers, of a share or shares of stock or a membership certificate or certificates in a cooperative apartment corporation; provided, that the forward commitment rate of interest does not exceed the maximum lawful rate of interest effective as of the date the forward commitment is issued by the lender.

(7) "Borrower's interest rate commitment" means a binding commitment made by a lender to a borrower wherein the lender agrees that, if a conventional or cooperative apartment loan is made following issuance of and pursuant to the commitment, the conventional or cooperative apartment loan shall be made at a rate of interest not in excess of the rate of interest agreed to in the commitment, provided that the rate of interest agreed to in the commitment is not in excess of the maximum lawful rate of interest effective as of the date the commitment is issued by the lender to the borrower.

(8) "Borrower's loan commitment" means a binding commitment made by a lender to a borrower wherein the lender agrees to make a conventional or cooperative apartment loan pursuant to the provisions, including the interest rate, of the commitment, provided that the commitment rate of interest does not exceed the maximum lawful rate of interest effective as of the date the commitment is issued and the commitment when issued and agreed to shall constitute a legally binding obligation on the part of the mortgagee or lender to make a conventional or cooperative apartment loan within a specified time peri-

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od in the future at a rate of interest not exceeding the maximum lawful rate of interest effective as of the date the commitment is issued by the lender to the borrower; provided that a lender who issues a borrower's loan commitment pursuant to the provisions of a forward commitment is authorized to issue the borrower's loan commitment at a rate of interest not to exceed the maximum lawful rate of interest effective as of the date the forward commitment is issued by the lender.

(9) "Finance charge" means the total cost of a conventional or cooperative apartment loan including extensions or grant of credit regardless of the characterization of the same and includes interest, finders fees, and other charges levied by a lender directly or indirectly against the person obtaining the conventional or cooperative apartment loan or against a seller of real property securing a conventional loan or a seller of a share or shares of stock or a membership certificate or certificates in a cooperative apartment corporation securing a cooperative apartment loan, or any other party to the transaction except any actual closing costs and any forward commitment fee. The finance charges plus the actual closing costs and any forward commitment fee, charged by a lender shall include all charges made by a lender other than the principal of the conventional or cooperative apartment loan. The finance charge, with respect to wraparound mortgages, shall be computed based upon the face amount of the wraparound mortgage note, which face amount shall consist of the aggregate of those funds actually advanced by the wraparound lender and the total outstanding principal balances of the prior note or notes which have been made a part of the wraparound mortgage note.

(10) "Lender" means any person making a conventional or cooperative apartment loan, or any person arranging financing for a conventional or cooperative apartment loan. The term also includes the holder or assignee at any time of a conventional or cooperative apartment loan.

(11) "Loan yield" means the annual rate of return obtained by a lender over the term of a conventional or cooperative apartment loan and shall be computed as the annual percentage rate as computed in accordance with sections 226.5 (b), (c), and (d) of Regulation Z, Code of Federal Regulations, title 12, section 226, but using the definition of finance charge provided for in this subdivision. For purposes of this section, with respect to wraparound mortgages, the rate of interest or loan yield shall be based upon the principal balance set forth in the wraparound note and mortgage and shall not include any interest differential or yield differential between the stated interest rate on the wraparound mortgage and the stated interest rate on the one or more prior mortgages included in the stated loan amount on a wraparound note and mortgage.

(12) "Person" means an individual, corporation, business trust, partnership or association or any other legal entity.

(13) "Residential unit" means any structure used principally for residential purposes or any portion thereof, and includes a unit in a townhouse or planned unit development, a condominium apartment in a common interest community, a nonowner occupied residence, and any other type of residence regardless of whether the unit is used as a principal residence, secondary residence, vacation residence, or residence of some other denomination.

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(14) "Vendor" means any person or persons who agree to sell real estate and finance any part or all of the purchase price by a contract for deed. The term also includes the holder or assignee at any time of the vendor's interest in a contract for deed.

Sec. 2. Minnesota Statutes 1998, section 51A.02, subdivision 29, is amended to read:

Subd. 29. **HOME PROPERTY.** "Home property" means real estate on which there is located, or will be located pursuant to a real estate loan, either a structure designed for residential use by one family or a single condominium unit in a residential common interest community, or unit in a residential cooperative, including all elements pertinent thereto, designed for residential use by one family in a multiple dwelling unit structure or complex, and includes fixtures, furnishings and equipment.

Sec. 3. Minnesota Statutes 1998, section 60C.09, subdivision 1, is amended to read:

Subdivision 1. **DEFINITION.** A covered claim is any unpaid claim, including one for unearned premium, which:

(a)(1) Arises out of and is within the coverage of an insurance policy issued by a member insurer if the insurer becomes an insolvent insurer after April 30, 1979; or

(2) Would be within the coverage of an extended reporting endorsement to a claims-made insurance policy if insolvency had not prevented the member insurer from fulfilling its obligation to issue the endorsement, if:

(i) the claims-made policy contained a provision affording the insured the right to purchase a reporting endorsement;

(ii) coverage will be no greater than if a reporting endorsement had been issued;

(iii) the insured has not purchased other insurance which applies to the claim; and

(iv) the insured's deductible under the policy is increased by an amount equal to the premium for the reporting endorsement, as provided in the insured's claims-made policy, or if not so provided, then as established by a rate service organization.

(b) Arises out of a class of business which is not excepted from the scope of this chapter by section 60C.02; and

(c) Is made by:

(i) A policyholder, or an insured beneficiary under a policy, who, at the time of the insured event, was a resident of this state; or

(ii) A person designated in the policy as having an insurable interest in or related to property situated in this state at the time of the insured event; or

(iii) An obligee or creditor under any surety bond, who, at the time of default by the principal debtor or obligor, was a resident of this state; or

(iv) A third party claimant under a liability policy or surety bond, if: (a) the insured or the third party claimant was a resident of this state at the time of the insured event; (b) the claim is for bodily or personal injuries suffered in this state by a person who when injured was a resident of this state; or (c) the claim is for damages to real property situated in this state at the time of damage; or

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(v) A direct or indirect assignee of a person who except for the assignment might have claimed under item (i), (ii), or (iii).

For purposes of paragraph (c), item (ii), unit owners of ~~condominiums, townhouses, or cooperative units in a common interest community~~ condominiums, townhouses, or cooperative units in a common interest community are considered as having an insurable interest.

A covered claim also includes any unpaid claim which arises or exists within 30 days after the time of entry of a final order of liquidation with a finding of insolvency by a court of competent jurisdiction unless prior thereto the insured replaces the policy or causes its cancellation or the policy expires on its expiration date. A covered claim does not include claims filed with the guaranty fund after the final date set by the court for the filing of claims except for workers' compensation claims that have met the time limitations and other requirements of chapter 176 and excused late filings permitted under section 60B.37.

Sec. 4. Minnesota Statutes 1998, section 83.20, subdivision 11, is amended to read:

Subd. 11. "Subdivision" or "subdivided land" means any real estate, wherever located, improved or unimproved, which is divided or proposed to be divided for the purpose of sale or lease, including sales or leases of any timeshare interest, ~~housing cooperative, condominium~~ unit in a common interest community, or similar interest in real estate.

Sec. 5. Minnesota Statutes 1998, section 83.20, subdivision 14, is amended to read:

Subd. 14. "Improved lots" means lots which have or will have within a two-year period from the date of purchase, a permanent residential structure thereon, and are not devoted to or used as a time share interest, ~~cooperative apartment corporation, condominium~~ unit in a common interest community, or similar interest in real estate.

Sec. 6. Minnesota Statutes 1998, section 103I.235, subdivision 1, is amended to read:

Subdivision 1. **DISCLOSURE OF WELLS TO BUYER.** (a) Before signing an agreement to sell or transfer real property, the seller must disclose in writing to the buyer information about the status and location of all known wells on the property, by delivering to the buyer either a statement by the seller that the seller does not know of any wells on the property, or a disclosure statement indicating the legal description and county, and a map drawn from available information showing the location of each well to the extent practicable. In the disclosure statement, the seller must indicate, for each well, whether the well is in use, not in use, or sealed.

(b) At the time of closing of the sale, the disclosure statement information, name and mailing address of the buyer, and the quartile, section, township, and range in which each well is located must be provided on a well disclosure certificate signed by the seller or a person authorized to act on behalf of the seller.

(c) A well disclosure certificate need not be provided if the seller does not know of any wells on the property and the deed or other instrument of conveyance contains the statement: "The Seller certifies that the Seller does not know of any wells on the described real property."

(d) If a deed is given pursuant to a contract for deed, the well disclosure certificate required by this subdivision shall be signed by the buyer or a person authorized to act on

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behalf of the buyer. If the buyer knows of no wells on the property, a well disclosure certificate is not required if the following statement appears on the deed followed by the signature of the grantee or, if there is more than one grantee, the signature of at least one of the grantees: "The Grantee certifies that the Grantee does not know of any wells on the described real property." The statement and signature of the grantee may be on the front or back of the deed or on an attached sheet and an acknowledgment of the statement by the grantee is not required for the deed to be recordable.

(e) This subdivision does not apply to the sale, exchange, or transfer of real property:

(1) that consists solely of a sale or transfer of severed mineral interests; or

(2) that consists of an individual condominium unit as described in chapters 515 and 515A 515B.

(f) For an area owned in common under chapter 515 or 515A 515B the association or other responsible person must report to the commissioner by July 1, 1992, the location and status of all wells in the common area. The association or other responsible person must notify the commissioner within 30 days of any change in the reported status of wells.

(g) For real property sold by the state under section 92.67, the lessee at the time of the sale is responsible for compliance with this subdivision.

(h) If the seller fails to provide a required well disclosure certificate, the buyer, or a person authorized to act on behalf of the buyer, may sign a well disclosure certificate based on the information provided on the disclosure statement required by this section or based on other available information.

(i) A county recorder or registrar of titles may not record a deed or other instrument of conveyance dated after October 31, 1990, for which a certificate of value is required under section 272.115, or any deed or other instrument of conveyance dated after October 31, 1990, from a governmental body exempt from the payment of state deed tax, unless the deed or other instrument of conveyance contains the statement made in accordance with paragraph (c) or (d) or is accompanied by the well disclosure certificate containing all the information required by paragraph (b) or (d). The county recorder or registrar of titles must not accept a certificate unless it contains all the required information. The county recorder or registrar of titles shall note on each deed or other instrument of conveyance accompanied by a well disclosure certificate that the well disclosure certificate was received. The notation must include the statement "No wells on property" if the disclosure certificate states there are no wells on the property. The well disclosure certificate shall not be filed or recorded in the records maintained by the county recorder or registrar of titles. After noting "No wells on property" on the deed or other instrument of conveyance, the county recorder or registrar of titles shall destroy or return to the buyer the well disclosure certificate. The county recorder or registrar of titles shall collect from the buyer or the person seeking to record a deed or other instrument of conveyance, a fee of \$20 for receipt of a completed well disclosure certificate. By the tenth day of each month, the county recorder or registrar of titles shall transmit the well disclosure certificates to the commissioner of health. By the tenth day after the end of each calendar quarter, the county recorder or registrar of titles shall transmit to the commissioner of health \$17.50 of the fee for each well disclosure certificate received during the quarter. The commissioner shall maintain the well disclosure certificate for at least six years. The

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commissioner may store the certificate as an electronic image. A copy of that image shall be as valid as the original.

(j) No new well disclosure certificate is required under this subdivision if the buyer or seller, or a person authorized to act on behalf of the buyer or seller, certifies on the deed or other instrument of conveyance that the status and number of wells on the property have not changed since the last previously filed well disclosure certificate. The following statement, if followed by the signature of the person making the statement, is sufficient to comply with the certification requirement of this paragraph: "I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate." The certification and signature may be on the front or back of the deed or on an attached sheet and an acknowledgment of the statement is not required for the deed or other instrument of conveyance to be recordable.

(k) The commissioner in consultation with county recorders shall prescribe the form for a well disclosure certificate and provide well disclosure certificate forms to county recorders and registrars of titles and other interested persons.

(l) Failure to comply with a requirement of this subdivision does not impair:

(1) the validity of a deed or other instrument of conveyance as between the parties to the deed or instrument or as to any other person who otherwise would be bound by the deed or instrument; or

(2) the record, as notice, of any deed or other instrument of conveyance accepted for filing or recording contrary to the provisions of this subdivision.

Sec. 7. Minnesota Statutes 1998, section 238.22, subdivision 3, is amended to read:

Subd. 3. **MULTIPLE DWELLING COMPLEX.** "Multiple dwelling complex" means a site, lot, field, or tract of land or water, other than a ~~condominium, cooperative common interest community,~~ or mobile home park, whether occupied or under construction, containing more than four dwelling units.

Sec. 8. Minnesota Statutes 1998, section 273.124, subdivision 2, is amended to read:

Subd. 2. **TOWNHOUSES PLANNED COMMUNITIES; COMMON AREAS ELEMENTS; CONDOMINIUMS; COOPERATIVES.** (a) The total value of townhouse property planned community common elements, as defined in chapter 515B, including the value added as provided in this paragraph, must have the benefit of homestead treatment or other special classification if the townhouse unit in the planned community otherwise qualifies. The value of townhouse property a planned community unit, as defined in chapter 515B, must be increased by the value added by the right to use any common areas elements in connection with the townhouse development planned community. The common areas elements of the development must not be separately taxed.

(b) Condominium property qualifying as a homestead under section 515A.1-105 and property owned by a cooperative association that qualifies as a homestead must have the benefit of homestead treatment or other special classification if the condominium or cooperative association property otherwise qualifies.

(c) If the condominium, townhouse, or cooperative association property a unit in a common interest community is owned by the occupant and used for the purposes of a

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homestead but is located upon land which is leased, that leased land must be valued and assessed as if it were homestead property within class 1 if all of the following criteria are met:

- (1) the occupant is using the property unit as a permanent residence;
- (2) the occupant or the cooperative association is paying the ad valorem property taxes and any special assessments levied against the land and structure;
- (3) the occupant or the cooperative association has signed a land lease; and
- (4) the term of the land lease is at least 50 years, notwithstanding the fact that the amount of the rental payment may be renegotiated at shorter intervals.

Sec. 9. Minnesota Statutes 1998, section 297H.01, subdivision 8, is amended to read:

Subd. 8. **RESIDENTIAL GENERATOR.** "Residential generator" means any of the following:

- (1) a detached single family residence that generates mixed municipal solid waste or non-mixed-municipal solid waste;
- (2) a person residing in a building or site containing multiple residences that generates mixed municipal solid waste, including apartment buildings, condominiums, common interest communities, or manufactured home parks, or townhomes, where each residence is separately billed by the waste service provider;
- (3) an owner of a building or site containing multiple residences or an association representing residences that generate mixed municipal solid waste or non-mixed-municipal solid waste, including apartment buildings, condominiums, manufactured home parks, or townhomes where no residence is separately billed for such service by the waste management service provider and the owner or association is billed directly for the waste management services. A residential generator does not include a self-hauler.

Sec. 10. Minnesota Statutes 1998, section 327C.095, subdivision 5, is amended to read:

Subd. 5. **PARK CONVERSIONS.** If the planned cessation of operation is for the purpose of converting the part of the park occupied by the resident to a condominium common interest community pursuant to chapter 515A 515B, the provisions of section 515A.4-110 515B.4-111, except paragraph subsection (a), shall apply. The nine-month notice required by this section shall state that the cessation is for the purpose of conversion and shall set forth the rights conferred by this subdivision and section 515A.4-110 515B.4-111, paragraph subsection (b). Not less than 120 days before the end of the nine months, the park owner shall serve upon the resident a form of purchase agreement setting forth the terms of sale contemplated by section 515A.4-110 515B.4-111, paragraph (b) subsection (d). Service of that form shall operate as the notice described by section 515A.4-110 515B.4-111, paragraph subsection (a).

Sec. 11. Minnesota Statutes 1998, section 357.18, subdivision 1, is amended to read:

Subdivision 1. **COUNTY RECORDER FEES.** The fees to be charged by the county recorder shall be as follows:

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(1) for indexing and recording any deed or other instrument \$1 for each page of an instrument, with a minimum fee of \$15;

(2) for documents containing multiple assignments, partial releases or satisfactions \$10 for each document number or book and page cited;

(3) for certified copies of any records or papers, \$1 for each page of an instrument with a minimum fee of \$5;

(4) for an abstract of title, the fees shall be determined by resolution of the county board duly adopted upon the recommendation of the county recorder, and the fees shall not exceed \$5 for every entry, \$50 for abstract certificate, \$1 per page for each exhibit included within an abstract as a part of an abstract entry, and \$2 per name for each required name search certification;

(5) for a copy of an official plat filed pursuant to section 505.08, the fee shall be \$9.50 and an additional 50 cents shall be charged for the certification of each plat;

(6) for filing a ~~econdominium~~ an amended floor plan in accordance with section 515.13, or a condominium plat in accordance with section 515A.2-110 chapter 515, an amended condominium plat in accordance with chapter 515A, or a common interest community plat or amendment complying with section 515B.2-110, subsection (c), the fee shall be 50 cents per apartment or unit with a minimum fee of \$30;

(7) for a copy of a ~~econdominium~~ floor plan filed pursuant to section 515.13, or chapter 515, a copy of a condominium plat filed in accordance with section 515A.2-110 chapter 515A, or a copy of a common interest community plat complying with section 515B.2-110, subsection (c), the fee shall be \$1 for each page of the floor plan or condominium plat or common interest community plat with a minimum fee of \$10.

Sec. 12. Minnesota Statutes 1998, section 389.09, is amended to read:

### 389.09 APPROVAL OF PLATS AND SURVEYS AND CONDOMINIUM PLATS IN CERTAIN COUNTIES.

**Subdivision 1. PLATS AND SURVEYS IN CERTAIN COUNTIES.** In any county in which there is a county surveyor who maintains an office on a full-time basis in a building maintained by the county for county purposes, the county board may, by ordinance adopted in accordance with section 375.51, require that each subdivision plat or registered land survey plat or ~~econdominium~~ common interest community plat must be approved by the county surveyor before recording. The county board shall establish a schedule of fees charged to proprietors of plats for this service.

**Subd. 2. CONDOMINIUM COMMON INTEREST COMMUNITY PLATS.** A county board may, by ordinance adopted in accordance with section 375.51, require that each ~~econdominium~~ common interest community plat submitted for recordation after July 31, 1985, be approved by the county surveyor or other licensed surveyor hired for this purpose by the county, for compliance with section ~~515A.2-110~~ 515B.2-110, before recording. The process of approving the ~~econdominium~~ common interest community plat must be conducted in an expeditious manner so as not to unduly delay the recording of the ~~econdominium~~ common interest community plat. The proprietor of the ~~econdominium~~ common interest community plat may be charged a reasonable fee for the service in accordance with a schedule established by resolution passed by the governing body of the county.

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Sec. 13. Minnesota Statutes 1998, section 428A.11, subdivision 4, is amended to read:

Subd. 4. **HOUSING IMPROVEMENTS.** "Housing improvements" has the meaning given in the city's enabling ordinance. Housing improvements may include improvements to common elements of a condominium or other common interest community.

Sec. 14. Minnesota Statutes 1998, section 428A.11, subdivision 6, is amended to read:

Subd. 6. **HOUSING UNIT.** "Housing unit" means real property and improvements thereon consisting of a one-dwelling unit, or an apartment or unit as described in chapter 515 ~~or~~, 515A, or 515B, respectively, that is occupied by a person or family for use as a residence.

Sec. 15. Minnesota Statutes 1998, section 462C.02, subdivision 4, is amended to read:

Subd. 4. **SINGLE FAMILY HOUSING.** "Single family housing" means real property and improvements thereon consisting of a one, two, three or four unit dwelling, one unit of which is occupied as a principal residence by the owner of the units, or a unit or an apartment as described in chapter 515 ~~or~~, 515A, or 515B, or any amendatory or supplemental law, which is owned or to be owned and occupied by one person or family as a principal residence, or a unit in a cooperatively owned group of dwelling units which is occupied as a principal residence. Single family housing may include new construction, or the acquisition and rehabilitation of an existing building and site, or the rehabilitation of and discharge of any interest or lien in an existing building and site.

Sec. 16. Minnesota Statutes 1998, section 462C.02, subdivision 5, is amended to read:

Subd. 5. **MULTIFAMILY HOUSING DEVELOPMENT, DEVELOPMENT.** "Multifamily housing development" or "development" means an apartment facility, including an apartment or unit described in chapter 515 ~~or~~, 515A, or 515B, or a cooperative, or a group of townhouses, which include four or more dwelling units, each to be rented or sold to or occupied by a person or family for use as a residence, or a building or buildings which include one or more dwelling units, each to be rented by a person or family for use as a residence. A development may include new construction or the acquisition and rehabilitation of an existing building and site or the rehabilitation of and discharge of any interest or lien in an existing building and site.

Sec. 17. Minnesota Statutes 1998, section 462C.05, subdivision 1, is amended to read:

Subdivision 1. **USE OF LOANS; CONDITIONS.** A city may also include in the housing plan, a program or programs to administer, and make or purchase a loan or loans to finance one or more multifamily housing developments within its boundaries, of the kind described in subdivision 2, 3, 4 or 7, and upon the conditions set forth in this section. A loan may be made or purchased for

(a) the acquisition and preparation of a site and the construction of a new development,

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(b) the rehabilitation of an existing building and site and the discharge of any lien or other interest in the building and site,

(c) for the acquisition of an existing building and site and the rehabilitation thereof,

(d) for the acquisition of an existing building and site for purposes of conversion to limited equity cooperative ownership by low or moderate income families,

(e) for the acquisition, or acquisition and improvement, of an existing building and site by a nonprofit corporation which will operate the building as a multifamily housing development for rental primarily to elderly or handicapped persons, or

(f) the taking out of accumulated equity in connection with a program of federal insurance for the preservation of low-income housing.

With respect to loans made or purchased pursuant to clause (b) or (c), the cost of rehabilitation of an existing building must be estimated to equal at least \$1,000 per dwelling unit or 20 percent of the appraised value of the original building and site whichever is less, except that with respect to rehabilitation which consists primarily of improvement of the property with facilities or improvements to conserve energy or convert or retrofit for use of alternative energy sources, rehabilitation loans may be made without regard to cost; and at least a substantial portion of such rehabilitation cost must be estimated to be incurred for compliance with building codes or conservation of energy.

Each development upon completion shall comply with all applicable code requirements. A loan or loans may be made or purchased for either the construction or the long-term financing of a development, or both, including the financing of the acquisition of dwelling units and interests in common facilities provided therein, by persons to whom such units and facilities may be sold as contemplated in chapter 515 or, 515A, or 515B, or any supplemental or amendatory law thereof or as contemplated for a development consisting of cooperative housing.

Substantially all of the proceeds of each loan shall be used to pay the cost of a multifamily housing development, including property functionally related and subordinate to it; but nothing herein prevents the construction or acquisition of the development over, under, or adjacent to, and in conjunction with facilities to be used for purposes other than housing.

Sec. 18. Minnesota Statutes 1998, section 500.20, subdivision 2a, is amended to read:

Subd. 2a. **RESTRICTION OF DURATION OF CONDITION.** Except for any right to reenter or to repossess as provided in subdivision 3, all private covenants, conditions, or restrictions created by which the title or use of real property is affected, cease to be valid and operative 30 years after the date of the deed, or other instrument, or the date of the probate of the will, creating them, and may be disregarded.

This subdivision does not apply to covenants, conditions, or restrictions:

(1) that were created before August 1, 1988, by deed or other instrument dated on or after August 1, 1982, or by will the date of death of the testator of which was on or after August 1, 1982;

(2) that were created before August 1, 1959, under which a person who owns or has an interest in real property against which the covenants, conditions, or restrictions have

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been filed claims a benefit of the covenant, condition, or restriction if the person records in the office of the county recorder or files in the office of the registrar of titles in the county in which the real estate affected is located, on or before March 30, 1989, a notice sworn to by the claimant or the claimant's agent or attorney; setting forth the name of the claimant; describing the real estate affected; describing the deed, instrument, or will creating the covenant, condition, or restriction; and stating that the covenant, condition, or restriction is not nominal and may not be disregarded under subdivision 1;

(3) that are created by the declaration, bylaws, floor plans, or condominium plat of a condominium created before August 1, 1980, under ~~sections 515.01 to 515.29~~ chapter 515, or created on or after August 1, 1980, under ~~sections 515A.1-101 to 515A.4-117~~ chapter 515A or 515B, or by any amendments of the declaration, bylaws, floor plans, or condominium plat;

(4) that are created by the articles of incorporation, bylaws, or proprietary leases of a cooperative association formed under chapter 308A;

(5) that are created by a declaration or other instrument that authorizes and empowers a corporation of which the qualification for being a stockholder or member is ownership of certain parcels of real estate, to hold title to common real estate for the benefit of the parcels;

(6) that are created by a deed, declaration, reservation, or other instrument by which one or more portions of a building, set of connecting or adjacent buildings, or complex or project of related buildings and structures share support, structural components, ingress and egress, or utility access with another portion or portions;

(7) that were created after July 31, 1959, and before August 1, 1982, under which a person who owns or has an interest in real estate against which covenants, conditions, or restrictions have been filed claims a benefit of the covenants, conditions, or restrictions if the person records in the office of the county recorder or files in the office of the registrar of titles in the county in which the real estate affected is located during the period commencing on the 28th anniversary of the date of the deed or instrument, or the date of the probate of the will, creating them and ending on the 30th anniversary, a notice as described in clause (2); or

(8) that are created by a declaration or bylaws of a common interest community created under or governed by chapter 515B, or by any amendments thereto.

A notice filed in accordance with clause (2) or (7) delays application of this subdivision to the covenants, conditions, or restrictions for a period ending on the later of seven years after the date of filing of the notice, or until final judgment is entered in an action to determine the validity of the covenants, conditions, or restrictions, provided in the case of an action the summons and complaint must be served and a notice of lis pendens must be recorded in the office of the county recorder or filed in the office of the registrar of titles in each county in which the real estate affected is located within seven years after the date of recording or filing of the notice under clause (2) or (7).

County recorders and registrars of titles shall accept for recording or filing a notice conforming with this subdivision and charge a fee corresponding with the fee charged for filing a notice of lis pendens of similar length. The notice may be discharged in the same manner as a notice of lis pendens and when discharged, together with the information included with it, ceases to constitute either actual or constructive notice.

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Sec. 19. Minnesota Statutes 1998, section 505.08, subdivision 3, is amended to read:

Subd. 3. **PREMATURE REFERENCE TO PLAT; FORFEITURE.** Any person who shall dispose of, lease, or offer to sell any land included in a plat by reference to the plat before the same is recorded, shall forfeit to the county \$100 for each lot, or part of a lot, so disposed of, leased, or offered; and any official, land surveyor, or person whose duty it is to comply with any of the provisions of this chapter, shall forfeit not less than \$100 for each month during which compliance is delayed. All forfeitures under this chapter shall be recovered in an action brought in the name of the county. Notwithstanding any provisions of this subdivision to the contrary, this subdivision shall not apply to an offer to sell or lease a unit in a proposed common interest community as defined in chapter 515B.

Sec. 20. Minnesota Statutes 1998, section 508.82, subdivision 1, is amended to read:

Subdivision 1. **STANDARD DOCUMENTS.** The fees to be paid to the registrar shall be as follows:

(1) of the fees provided herein, five percent of the fees collected under clauses (3), (4), (10), (12), (13), (14), (16), (17), and (18), for filing or memorializing shall be paid to the state treasurer and credited to the general fund; plus a \$4.50 surcharge shall be charged and collected in addition to the total fees charged for each transaction under clauses (2) to (5), (10), (12), (14), and (18), with 50 cents of this surcharge to be retained by the county to cover its administrative costs and \$4 to be paid to the state treasury and credited to the general fund;

(2) for registering each original certificate of title, and issuing a duplicate of it, \$30;

(3) for registering each instrument transferring the fee simple title for which a new certificate of title is issued and for the issuance and registration of the new certificate of title, \$30;

(4) for the entry of each memorial on a certificate and endorsements upon duplicate certificates, \$15;

(5) for issuing each residue certificate, \$20;

(6) for exchange certificates, \$10 for each certificate canceled and \$10 for each new certificate issued;

(7) for each certificate showing condition of the register, \$10;

(8) for any certified copy of any instrument or writing on file in the registrar's office, the same fees allowed by law to county recorders for like services;

(9) for a noncertified copy of any instrument or writing on file in the office of the registrar of titles, or any specified page or part of it, an amount as determined by the county board for each page or fraction of a page specified. If computer or microfilm printers are used to reproduce the instrument or writing, a like amount per image;

(10) for filing two copies of any plat in the office of the registrar, \$30;

(11) for any other service under this chapter, such fee as the court shall determine;

(12) for issuing a duplicate certificate of title pursuant to the directive of the examiner of titles in counties in which the compensation of the examiner is paid in the same manner as the compensation of other county employees, \$50, plus \$10 to memorialize;

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(13) for issuing a duplicate certificate of title pursuant to the directive of the examiner of titles in counties in which the compensation of the examiner is not paid by the county or pursuant to an order of the court, \$10;

(14) for filing a ~~condominium plat or an amendment to it~~ declaration in accordance with chapter 515, \$10 for each certificate upon which the document is registered and \$30 for an amended floor plan filed in accordance with chapter 515;

(15) for filing an amendment to a condominium declaration or plat in accordance with chapter 515A, or a common interest community declaration and plat or amendment complying with section 515B.2-110, subsection (c), \$10 for each certificate upon which the document is registered and \$30 for the filing of the condominium or common interest community plat or amendment;

(16) for a copy of a condominium floor plan filed in accordance with chapter 515, a copy of a condominium plat filed pursuant to chapters 515 and in accordance with chapter 515A, or a copy of a common interest community plat complying with section 515B.2-110, subsection (c), the fee shall be \$1 for each page of the floor plan, condominium plat, or common interest community plat with a minimum fee of \$10;

(16) for filing a condominium declaration and plat or an amendment to it in accordance with chapter 515A, \$10 for each certificate upon which the document is registered and \$30 for the filing of the condominium plat or an amendment thereto;

(17) for the filing of a certified copy of a plat of the survey pursuant to section 508.23 or 508.671, \$10;

(18) for filing a registered land survey in triplicate in accordance with section 508.47, subdivision 4, \$30;

(19) for furnishing a certified copy of a registered land survey in accordance with section 508.47, subdivision 4, \$10.

Sec. 21. Minnesota Statutes 1998, section 508A.82, subdivision 1, is amended to read:

Subdivision 1. **STANDARD DOCUMENTS.** The fees to be paid to the registrar shall be as follows:

(1) of the fees provided herein, five percent of the fees collected under clauses (3), (4), (10), (12), (13), (14), (16), and (18), for filing or memorializing shall be paid to the state treasurer and credited to the general fund; plus a \$4.50 surcharge shall be charged and collected in addition to the total fees charged for each transaction under clauses (2) to (5), (10), (12), (14), and (18), with 50 cents of this surcharge to be retained by the county to cover its administrative costs and \$4 to be paid to the state treasury and credited to the general fund;

(2) for registering each original CPT, and issuing a duplicate of it, \$30;

(3) for registering each instrument transferring the fee simple title for which a new CPT is issued and for the issuance and registration of the new CPT, \$30;

(4) for the entry of each memorial on a certificate and endorsements upon duplicate CPTs, \$15;

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- (5) for issuing each residue CPT, \$20;
- (6) for exchange CPTs, \$10 for each CPT canceled and \$10 for each new CPT issued;
- (7) for each certificate showing condition of the register, \$10;
- (8) for any certified copy of any instrument or writing on file in the registrar's office, the same fees allowed by law to county recorders for like services;
- (9) for a noncertified copy of any instrument or writing on file in the office of the registrar of titles, or any specified page or part of it, an amount as determined by the county board for each page or fraction of a page specified. If computer or microfilm printers are used to reproduce the instrument or writing, a like amount per image;
- (10) for filing two copies of any plat in the office of the registrar, \$30;
- (11) for any other service under sections 508A.01 to 508A.85, the fee the court shall determine;
- (12) for issuing a duplicate CPT pursuant to the directive of the examiner of titles in counties in which the compensation of the examiner is paid in the same manner as the compensation of other county employees, \$50, plus \$10 to memorialize;
- (13) for issuing a duplicate CPT pursuant to the directive of the examiner of titles in counties in which the compensation of the examiner is not paid by the county or pursuant to an order of the court, \$10;
- (14) for filing a condominium plat or an amendment to it in accordance with chapter 515, \$10 for each certificate upon which the document is registered and \$30 for an amended floor plan filed in accordance with chapter 515;
- (15) for filing an amendment to a condominium declaration or plat in accordance with chapter 515A, or a common interest community declaration and plat or amendment complying with section 515B.2-110, subsection (c), \$10 for each certificate upon which the document is registered and \$30 for the filing of the condominium or common interest community plat or amendment;
- (16) for a copy of a condominium floor plan filed in accordance with chapter 515, a copy of a condominium plat filed pursuant to chapters 515 and in accordance with chapter 515A, or a copy of a common interest community plat complying with section 515B.2-110, subsection (c), the fee shall be \$1 for each page of the floor plan, condominium plat, or common interest community plat with a minimum fee of \$10;
- (16) for filing a condominium declaration and condominium plat or an amendment to it in accordance with chapter 515A, \$10 for each certificate upon which the document is registered and \$30 for the filing of the condominium plat or an amendment to it;
- (17) in counties in which the compensation of the examiner of titles is paid in the same manner as the compensation of other county employees, for each parcel of land contained in the application for a CPT, as the number of parcels is determined by the examiner, a fee which is reasonable and which reflects the actual cost to the county, established by the board of county commissioners of the county in which the land is located;
- (18) for filing a registered land survey in triplicate in accordance with section 508A.47, subdivision 4, \$30;

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(19) for furnishing a certified copy of a registered land survey in accordance with section 508A.47, subdivision 4, \$10.

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#### ARTICLE 4

Section 1. Minnesota Statutes 1998, section 359.02, is amended to read:

##### 359.02 TERM.

A notary commissioned under section 359.01 holds office for five years, unless sooner removed by the governor or the district court, or by action of the commissioner. Within ~~30 days~~ seven months before the expiration of the commission a notary may be reappointed for a new term to commence and to be designated in the new commission as beginning upon the day immediately following the date of the expiration. The reappointment takes effect and is valid although the appointing governor may not be in the office of governor on the effective day.

(a) All notary commissions issued before January 31, 1995, will expire on January 31, 1995.

(b) All notary commissions issued after January 31, 1995, will expire at the end of the licensing period, which will end every fifth year following January 31, 1995.

(c) All notary commissions issued during a licensing period expire at the end of that period as set forth in this section.

Sec. 2. Minnesota Statutes 1998, section 386.31, is amended to read:

##### 386.31 CONSECUTIVE NUMBERING.

Each county recorder shall endorse plainly upon each instrument received for record or filing as soon as received a number consecutive, to the extent practicable, to the number affixed to the instrument next previously received and enter such number as a part of the entry relating to such instrument in all the indexes kept in the office and on the margin of the record of the instrument, and such number shall be prima facie evidence of priority of registration. If more than one instrument shall be received at the same time, by mail or other like enclosure, the recorder shall affix such number in the order directed by the sender; if no direction be given, then in the order in which the instruments actually come to the recorder's hand in opening the enclosures.

Sec. 3. Minnesota Statutes 1998, section 507.421, is amended to read:

##### 507.421 ESTATES AND TRUSTS; CONVEYANCES, SATISFACTIONS, GRANTS, AND RELEASES.

Subdivision 1. **MADE TO ESTATE OR TRUST.** A conveyance or grant of an interest in real or personal property made to the estate of a decedent, to the estate of a ward or conservatee, to the ward's or conservatee's guardian or conservator, or to a trust, including a trust in the form of a pension or profit-sharing plan, that names the estate, the guardian, the conservator, or the trust as the grantee of the interest, is a valid and effective conveyance or grant ~~of the interest~~ to the personal representative, guardian, or conserva-

New language is indicated by underline, deletions by ~~strikeout~~.

tor of the estate to the ward or conservatee, or to the trustee of the trust, in like manner and effect as if the personal representative, ~~guardian, conservator~~ ward, conservatee, or trustee had been named the grantee of the conveyance or grant.

Subd. 2. **MADE BY ESTATE OR TRUST.** A satisfaction, release, conveyance, or grant of an interest in real or personal property that is made by an estate, a guardian, a conservator, or trust described in subdivision 1, that names the estate, the guardian, the conservator, or trust as the holder or grantor of the interest, and that is executed by the personal representative, ~~guardian, conservator~~ ward, conservatee, or trustee authorized to execute the instrument, is a valid and effective satisfaction, release, conveyance, or grant of the interest, in like manner and effect as if the personal representative, guardian, conservator, or trustee had been named the holder or the grantor in the satisfaction, release, conveyance, or grant.

Sec. 4. Minnesota Statutes 1998, section 559.21, subdivision 2a, is amended to read:

Subd. 2a. **FOR POST 7/31/1985 CONTRACT.** If a default occurs in the conditions of a contract for the conveyance of real estate or an interest in real estate executed on or after August 1, 1985, that gives the seller a right to terminate it, the seller may terminate the contract by serving upon the purchaser or the purchaser's personal representatives or assigns, within or outside of the state, a notice specifying the conditions in which default has been made. The notice must state that the contract will terminate 60 days, or a shorter period allowed in subdivision 4, after the service of the notice, unless prior to the termination date the purchaser:

- (1) complies with the conditions in default;
- (2) makes all payments due and owing to the seller under the contract through the date that payment is made;
- (3) pays the costs of service of the notice, including the reasonable costs of service by sheriff, public officer, or private process server; except payment of costs of service is not required unless the seller notifies the purchaser of the actual costs of service by certified mail to the purchaser's last known address at least ten days prior to the date of termination;
- (4) except for earnest money contracts, purchase agreements, and exercised options, pays two percent of any amount in default at the time of service, not including the final balloon payment, any taxes, assessments, mortgages, or prior contracts that are assumed by the purchaser; and
- (5) if the contract is executed on or after August 1, 1999, pays an amount to apply on attorneys' fees actually expended or incurred, of \$250 if the amount in default is less than \$1,000, and of \$500 if the amount in default is \$1,000 or more; or if the contract is executed before August 1, 1999, pays an amount to apply on attorneys' fees actually expended or incurred, of \$125 if the amount in default is less than \$750, and of \$250 if the amount in default is \$750 or more; except that no amount for attorneys' fees is required to be paid unless some part of the conditions of default has existed for at least 30 days prior to the date of service of the notice.

Sec. 5. Minnesota Statutes 1998, section 582.32, subdivision 5, is amended to read:

Subd. 5. **FORECLOSURE PROCEDURE; NOTICE TO CREDITORS.** (a) After the date of agreement, the mortgagee may proceed to foreclose the mortgage in ac-

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cordance with the laws generally applicable to foreclosure by advertisement including this chapter and chapter 580, except as otherwise provided in this section.

(b) At least 14 days before the date of sale, the mortgagee shall:

(1) serve the persons in possession of the real estate with notice of the voluntary foreclosure sale under this section in the same manner as in a foreclosure by advertisement as provided in section 580.03; and

(2) mail notice of the voluntary foreclosure sale under this section to each holder of a junior lien who has filed or recorded a request for notice under section 580.032.

(c) The mortgagee shall publish notice of the voluntary foreclosure sale under this section in the same manner as in a foreclosure by advertisement as provided in section 580.03 for four consecutive weeks. The notice must include all information required under section 580.04, clauses (1) to (6), the date of agreement, and shall state that each holder of a junior lien may redeem in the order and manner provided in subdivision 9, beginning after the expiration of the mortgagor's ~~two-month~~ redemption period under this section.

(d) The mortgagor's redemption period is two months from the date of sale, except that if the real estate is subject to a federal tax lien under which the United States is entitled to a 120-day redemption period under section 7425(d)(1) of the Internal Revenue Code, as amended, the mortgagor's redemption period is 120 days from the date of sale. The certificate of sale must indicate the redemption period applicable under this paragraph.

#### Sec. 6. EFFECTIVE DATE.

Section 1 is effective July 1, 1999.

Presented to the governor March 11, 1999

Signed by the governor March 15, 1999, 2:35 p.m.

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### CHAPTER 12—H.F.No. 49

*An act relating to public employees; making certain changes relating to health coverage for survivors of police officers and firefighters killed in the line of duty; amending Minnesota Statutes 1998, section 299A.465, subdivision 2.*

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

Section 1. Minnesota Statutes 1998, section 299A.465, subdivision 2, is amended to read:

Subd. 2. **OFFICER OR FIREFIGHTER KILLED IN LINE OF DUTY.** (a) This subdivision applies when a peace officer or firefighter is killed while on duty and discharging the officer's or firefighter's duties as a peace officer or firefighter.

(b) The officer's or firefighter's employer shall continue to cover the deceased officer's or firefighter's dependents, including the officer's or firefighter's spouse:

New language is indicated by underline, deletions by ~~strikeout~~.