

Sec. 14. EXEMPT ACREAGE IN LAND EXCHANGE.

The city of Bird Island may exchange a parcel of land owned by it or acquired for it by a qualified intermediary, for a parcel of agricultural real estate that is owned by an individual exempt under Minnesota Statutes, section 500.221, based on ownership being lawfully acquired prior to June 1, 1981. Since there is no exception for exchanged property under Minnesota Statutes, section 500.221, the exchange of the city's parcel would result in the loss of exemption for the exchanged property. Accordingly, this act provides that the agricultural land being exchanged for the parcel that is currently exempt shall also be exempt under Minnesota Statutes, section 500.221, as if it had been purchased by the owner prior to June 1, 1981. Such exchanged parcel shall have exactly the same rights under the statute as the parcel to be exchanged and the deeds used to effectuate the transaction may so state.

Presented to the governor May 25, 2001

Signed by the governor May 29, 2001, 11:27 a.m.

CHAPTER 207—H.F.No. 1310

An act relating to construction; giving the state building official final authority for interpreting the State Building Code and prescribing its enforcement; regulating construction-related fees; requiring municipalities to submit annual reports on construction-related fees; providing for adoption of certain amendments to the mechanical code; limiting certain municipal building code ordinances; clarifying certain terms; modifying provisions relating to construction warranties; limiting certain waivers of rights; modifying provisions relating to zoning ordinances; amending Minnesota Statutes 2000, sections 16B.61, subdivisions 1, 2; 16B.62, subdivision 1; 16B.63, by adding a subdivision; 326.90, subdivision 1; 327A.01, subdivision 2; 327A.02, subdivisions 1, 3; 462.353, subdivision 4; 462.357, subdivisions 2, 5; proposing coding for new law in Minnesota Statutes, chapters 16B; 462.

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

Section 1. Minnesota Statutes 2000, section 16B.61, subdivision 1, is amended to read:

Subdivision 1. ADOPTION OF CODE. Subject to sections 16B.59 to 16B.75, the commissioner shall by rule establish a code of standards for the construction, reconstruction, alteration, and repair of buildings, governing matters of structural materials, design and construction, fire protection, health, sanitation, and safety, including design and construction standards regarding heat loss control, illumination, and climate control. The code must conform insofar as practicable to model building codes generally accepted and in use throughout the United States, including a code for building conservation. In the preparation of the code, consideration must be given to the existing statewide specialty codes presently in use in the state. Model codes with necessary modifications and statewide specialty codes may be adopted by reference.

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

The code must be based on the application of scientific principles, approved tests, and professional judgment. To the extent possible, the code must be adopted in terms of desired results instead of the means of achieving those results, avoiding wherever possible the incorporation of specifications of particular methods or materials. To that end the code must encourage the use of new methods and new materials. Except as otherwise provided in sections 16B.59 to 16B.75, the commissioner shall administer and enforce the provisions of those sections.

The commissioner shall develop rules addressing the plan review fee assessed to similar buildings without significant modifications including provisions for use of building systems as specified in the industrial/modular program specified in section 16B.75. Additional plan review fees associated with similar plans must be based on costs commensurate with the direct and indirect costs of the service.

Sec. 2. Minnesota Statutes 2000, section 16B.61, subdivision 2, is amended to read:

Subd. 2. **ENFORCEMENT BY CERTAIN BODIES.** Under the direction and supervision of the commissioner, the provisions of the code relating to electrical installations shall be enforced by the state board of electricity, pursuant to the Minnesota Electrical Act, the provisions relating to plumbing shall be enforced by the commissioner of health, the provisions relating to high pressure steam piping and appurtenances shall be enforced by the department of labor and industry. Fees for inspections conducted by the state board of electricity shall be paid in accordance with the rules of the state board of electricity. Under direction of the commissioner of public safety, the state fire marshal shall enforce the Minnesota Uniform Fire Code as provided in chapter 299F. The commissioner, in consultation with the commissioner of labor and industry, shall adopt amendments to the mechanical code portion of the State Building Code to implement standards for process piping.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2000, section 16B.62, subdivision 1, is amended to read:

Subdivision 1. **MUNICIPAL ENFORCEMENT.** The State Building Code applies statewide and supersedes the building code of any municipality. A municipality must not by ordinance or through development agreement require building code provisions regulating components or systems of any residential structure that are different from any provision of the State Building Code. A municipality may, with the approval of the state building official, adopt an ordinance that is more restrictive than the State Building Code where geological conditions warrant a more restrictive ordinance. A municipality may appeal the disapproval of a more restrictive ordinance to the commissioner. An appeal under this subdivision is subject to the schedule, fee, procedures, cost provisions, and appeal rights set out in section 16B.67. The State Building Code does not apply to agricultural buildings except with respect to state inspections required or rulemaking authorized by sections 103F.141, 216C.19, subdivision 8, and 326.244. All municipalities shall adopt and enforce the State Building Code with respect to new construction within their respective jurisdictions.

New language is indicated by underline, deletions by strikeout.

If a city has adopted or is enforcing the State Building Code on June 3, 1977, or determines by ordinance after that date to undertake enforcement, it shall enforce the code within the city. A city may by ordinance extend the enforcement of the code to contiguous unincorporated territory not more than two miles distant from its corporate limits in any direction. Where two or more noncontiguous cities which have elected to enforce the code have boundaries less than four miles apart, each is authorized to enforce the code on its side of a line equidistant between them. Once enforcement authority is extended extraterritorially by ordinance, the authority may continue to be exercised in the designated territory even though another city less than four miles distant later elects to enforce the code. After the extension, the city may enforce the code in the designated area to the same extent as if the property were situated within its corporate limits.

A city which, on June 3, 1977, had not adopted the code may not commence enforcement of the code within or outside of its jurisdiction until it has provided written notice to the commissioner, the county auditor, and the town clerk of each town in which it intends to enforce the code. A public hearing on the proposed enforcement must be held not less than 30 days after the notice has been provided. Enforcement of the code by the city outside of its jurisdiction commences on the first day of January in the year following the notice and hearing.

Municipalities may provide for the issuance of permits, inspection, and enforcement within their jurisdictions by means which are convenient, and lawful, including by means of contracts with other municipalities pursuant to section 471.59, and with qualified individuals. The other municipalities or qualified individuals may be reimbursed by retention or remission of some or all of the building permit fee collected or by other means. In areas of the state where inspection and enforcement is unavailable from qualified employees of municipalities, the commissioner shall train and designate individuals available to carry out inspection and enforcement on a fee basis. Nothing in this section prohibits a municipality from adopting ordinances relating to zoning, subdivision, or planning unless the ordinance conflicts with a provision of the State Building Code that regulates components or systems of any residential structure.

Sec. 4. Minnesota Statutes 2000, section 16B.63, is amended by adding a subdivision to read:

Subd. 5. INTERPRETATIVE AUTHORITY. To achieve uniform and consistent application of the State Building Code, the state building official has final interpretative authority applicable to all codes adopted as part of the State Building Code except for the plumbing code and the electrical code when enforced by the state board of electricity. A final interpretative committee composed of seven members, consisting of three building officials, two inspectors from the affected field, and two construction industry representatives, shall review requests for final interpretations relating to that field. A request for final interpretation must come from a local or state level building code board of appeals. The state building official must establish procedures for membership of the interpretative committees. The appropriate committee shall review the request and make a recommendation to the state building official

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

for the final interpretation within 30 days of the request. The state building official must issue an interpretation within ten business days from the recommendation from the review committee. A final interpretation may be appealed within 30 days of its issuance to the commissioner under section 16B.67. The final interpretation must be published within ten business days of its issuance and made available to the public. Municipal building officials shall administer all final interpretations issued by the state building official until the final interpretations are considered for adoption as part of the State Building Code.

Sec. 5. [16B.665] PERMIT FEE LIMITATION ON MINOR RESIDENTIAL IMPROVEMENTS.

A municipality as defined in section 16B.60, subdivision 3, or a town may not charge a permit fee that exceeds \$15 or 5 percent of the cost of the improvement, installation, or replacement, whichever is greater, for the improvement, installation, or replacement of a residential fixture or appliance that:

- (1) does not require modification to electric or gas service;
 - (2) has a total cost of \$500 or less, excluding the cost of the fixture or appliance;
- and
- (3) is improved, installed, or replaced by the home owner or a licensed contractor.

Sec. 6. [16B.685] ANNUAL REPORT.

Beginning with the first report filed by April 1, 2003, each municipality shall annually report by April 1 to the department, in a format prescribed by the department, all construction and development-related fees collected by the municipality from developers, builders, and subcontractors. The report must include:

- (1) the number and valuation of units for which fees were paid;
- (2) the amount of building permit fees, plan review fees, administrative fees, engineering fees, infrastructure fees, and other construction and development-related fees; and
- (3) the expenses associated with the municipal activities for which fees were collected.

Sec. 7. Minnesota Statutes 2000, section 326.90, subdivision 1, is amended to read:

Subdivision 1. **LOCAL LICENSE PROHIBITED.** Except as provided in sections ~~326.991~~ and 326.90, subdivision 2, and 326.991, a political subdivision may not require a person licensed under sections ~~326.83 to 326.991~~ to also be licensed or pay a registration or other fee related to licensure under any ordinance, law, rule, or regulation of the political subdivision. This section does not prohibit charges for building permits or other charges not directly related to licensure.

Sec. 8. Minnesota Statutes 2000, section 327A.01, subdivision 2, is amended to read:

New language is indicated by underline, deletions by strikeout.

Subd. 2. **BUILDING STANDARDS.** "Building standards" means the ~~structural, mechanical, electrical, and quality standards of the home building industry for the geographic area in which the dwelling is situated~~ State Building Code, adopted by the commissioner of administration pursuant to sections 16B.59 to 16B.75, that is in effect at the time of the construction or remodeling.

Sec. 9. Minnesota Statutes 2000, section 327A.02, subdivision 1, is amended to read:

Subdivision 1. **WARRANTIES BY VENDORS.** In every sale of a completed dwelling, and in every contract for the sale of a dwelling to be completed, the vendor shall warrant to the vendee that:

(a) during the one-year period from and after the warranty date the dwelling shall be free from defects caused by faulty workmanship and defective materials due to noncompliance with building standards;

(b) during the two-year period from and after the warranty date, the dwelling shall be free from defects caused by faulty installation of plumbing, electrical, heating, and cooling systems due to noncompliance with building standards; and

(c) during the ten-year period from and after the warranty date, the dwelling shall be free from major construction defects due to noncompliance with building standards.

Sec. 10. Minnesota Statutes 2000, section 327A.02, subdivision 3, is amended to read:

Subd. 3. **HOME IMPROVEMENT WARRANTIES.** (a) In a sale or in a contract for the sale of home improvement work involving major structural changes or additions to a residential building, the home improvement contractor shall warrant to the owner that:

(1) during the one-year period from and after the warranty date the home improvement shall be free from defects caused by faulty workmanship and defective materials due to noncompliance with building standards; and

(2) during the ten-year period from and after the warranty date the home improvement shall be free from major construction defects due to noncompliance with building standards.

(b) In a sale or in a contract for the sale of home improvement work involving the installation of plumbing, electrical, heating or cooling systems, the home improvement contractor shall warrant to the owner that, during the two-year period from and after the warranty date, the home improvement shall be free from defects caused by the faulty installation of the system or systems due to noncompliance with building standards.

(c) In a sale or in a contract for the sale of any home improvement work not covered by paragraph (a) or (b), the home improvement contractor shall warrant to the owner that, during the one-year period from and after the warranty date, the home improvement shall be free from defects caused by faulty workmanship or defective materials due to noncompliance with building standards.

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

Sec. 11. Minnesota Statutes 2000, section 462.353, subdivision 4, is amended to read:

Subd. 4. **FEES.** A municipality may prescribe fees sufficient to defray the costs incurred by it in reviewing, investigating, and administering an application for an amendment to an official control established pursuant to sections 462.351 to 462.364 or an application for a permit or other approval required under an official control established pursuant to those sections. Fees as prescribed shall must be by ordinance and must be fair, reasonable, and proportionate to the actual cost of the service for which the fee is imposed. A municipality shall adopt management and accounting procedures to ensure that fees are maintained and used only for the purpose for which they are collected.

If a dispute arises over a specific fee imposed by a municipality related to a specific application, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal under section 462.361. An approved application may proceed as if the fee had been paid, pending a decision on the appeal.

Sec. 12. **[462.3531] WAIVER OF RIGHTS.**

Any waiver of rights of appeal under section 429.081 is effective only for the amount of assessment estimated or for the assessment amount agreed to in the development agreement. An effective waiver of rights of appeal under section 429.081 may contain additional conditions providing for increases in assessments that will not be subject to appeal if:

(1) the increases are a result of requests made by the developer or property owner;
or

(2) the increases are otherwise approved by the developer or property owner in a subsequent separate written document.

Sec. 13. Minnesota Statutes 2000, section 462.357, subdivision 2, is amended to read:

Subd. 2. **GENERAL REQUIREMENTS.** (a) At any time after the adoption of a land use plan for the municipality, the planning agency, for the purpose of carrying out the policies and goals of the land use plan, may prepare a proposed zoning ordinance and submit it to the governing body with its recommendations for adoption.

(b) Subject to the requirements of subdivisions 3, 4, and 5, the governing body may adopt and amend a zoning ordinance by a majority vote of all its members. The adoption or amendment of any portion of a zoning ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial requires a two-thirds majority vote of all its members of the governing body.

(c) The land use plan must provide guidelines for the timing and sequence of the adoption of official controls to ensure planned, orderly, and staged development and redevelopment consistent with the land use plan.

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

Sec. 14. Minnesota Statutes 2000, section 462.357, subdivision 5, is amended to read:

Subd. 5. **AMENDMENT; CERTAIN CITIES OF THE FIRST CLASS.** The provisions of this subdivision apply to cities the adoption or amendment of any portion of a zoning ordinance which changes all or part of the existing classification of a zoning district from residential to either commercial or industrial of a property located in a city of the first class, except a city of the first class in which a different process is provided through the operation of the city's home rule charter. In a city to which this subdivision applies, amendments to a zoning ordinance shall be made in conformance with this section but only after there shall have been filed in the office of the city clerk a written consent of the owners of two-thirds of the several descriptions of real estate situate within 100 feet of the total contiguous descriptions of real estate held by the same owner or any party purchasing any such contiguous property within one year preceding the request, and after the affirmative vote in favor thereof by a majority of the members of the governing body of any such city. The governing body of such city may, by a two-thirds vote of its members, after hearing, adopt a new zoning ordinance without such written consent whenever the planning commission or planning board of such city shall have made a survey of the whole area of the city or of an area of not less than 40 acres, within which the new ordinance or the amendments or alterations of the existing ordinance would take effect when adopted, and shall have considered whether the number of descriptions of real estate affected by such changes and alterations renders the obtaining of such written consent impractical, and such planning commission or planning board shall report in writing as to whether in its opinion the proposals of the governing body in any case are reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use, and shall have conducted a public hearing on such proposed ordinance, changes or alterations, of which hearing published notice shall have been given in a daily newspaper of general circulation at least once each week for three successive weeks prior to such hearing, which notice shall state the time, place and purpose of such hearing, and shall have reported to the governing body of the city its findings and recommendations in writing.

Sec. 15. **EFFECTIVE DATE.**

(a) Sections 5 and 11 are effective January 1, 2002.

(b) Sections 8 to 10, 13, and 14 are effective the day following final enactment.

(c) Section 12 is effective August 1, 2001, and applies to contracts entered into on or after that date.

Presented to the governor May 25, 2001

Signed by the governor May 29, 2001, 11:35 a.m.

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