

CHAPTER 135--H.F.No. 1372

An act relating to civil law; providing trusts for animal care; modifying certain probate provisions; enacting the Revised Uniform Fiduciary Access to Digital Assets Act; clarifying certain provisions for receiverships and assignments for the benefit of creditors; providing for a short form of assignment for recording with a deed to transfer real property; updating references throughout Minnesota Statutes to include limited liability companies under the Minnesota Revised Uniform Limited Liability Company Act; clarifying certain fees; making other business organization clarifying changes; amending Minnesota Statutes 2014, sections 5.001, subdivision 2; 5.25, subdivisions 1, 3; 115D.03, subdivision 6a; 116J.395, subdivision 3; 211B.15, subdivision 1; 216B.1612, subdivision 2; 302A.651, subdivision 4; 308B.005, subdivision 18; 319B.02, subdivisions 10, 12; 322C.0201, subdivision 4; 322C.0205, subdivision 1; 322C.0208; 322C.1011, subdivisions 1, 2; 484.73, subdivision 2; 524.1-201; 524.2-102; 524.2-202; 524.2-301; 524.2-403; 524.2-404; 524.2-606; 524.3-406; 524.3-1201; 524.3-1203, subdivision 5; 559.17, subdivision 2; 576.22; 576.29, subdivision 1; 576.30; 576.45, subdivision 3; 576.47; 577.12; 577.15; Minnesota Statutes 2015 Supplement, sections 5.25, subdivision 5; 124E.05, subdivision 1; 302A.471, subdivision 1; 322C.0105, subdivision 1a; 322C.0407, subdivision 4; 322C.1007, subdivision 1; 501C.0110; 501C.0402; 501C.0409; proposing coding for new law in Minnesota Statutes, chapters 501C; 524; proposing coding for new law as Minnesota Statutes, chapter 521A.

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

ARTICLE 1

TRUST CREATED FOR THE CARE OF ANIMALS

Section 1. Minnesota Statutes 2015 Supplement, section 501C.0110, is amended to read:

501C.0110 OTHERS TREATED AS QUALIFIED BENEFICIARIES.

(a) Whenever notice to qualified beneficiaries of a trust is required under this chapter, the trustee must also give notice to any other beneficiary who has sent the trustee a request for notice.

(b) A charitable organization expressly designated to receive distributions under the terms of a charitable trust has the rights of a qualified beneficiary under this chapter if the charitable organization, on the date the charitable organization's qualification is being determined:

(1) is a distributee or permissible distributee of trust income or principal;

(2) would be a distributee or permissible distributee of trust income or principal upon the termination of the interests of other distributees or permissible distributees then receiving or eligible to receive distributions; or

(3) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

(c) A person appointed to enforce a trust created for the care of an animal or another noncharitable purpose as provided in section 501C.0408 or 501C.0409 has the rights of a qualified beneficiary under this chapter.

(e) (d) The attorney general of this state has the rights of a qualified beneficiary with respect to a charitable trust having its principal place of administration in this state.

Sec. 2. Minnesota Statutes 2015 Supplement, section 501C.0402, is amended to read:

501C.0402 REQUIREMENTS FOR CREATION.

(a) A trust is created only if:

(1) the settlor has capacity to transfer property free from trust, except that if a trust is a revocable trust, the settlor has capacity as required under section 501C.0601;

(2) the settlor indicates an intention to create the trust;

(3) the trust has a definite beneficiary or is:

(i) a charitable trust;

(ii) trust for the care of an animal, as provided in section 501C.0408; or

(ii) (iii) a trust for a noncharitable purpose, as provided in section 501C.0409; and

(4) the trustee has duties to perform.

(b) A beneficiary is definite if the beneficiary can be ascertained now or in the future, subject to any applicable rule against perpetuities.

(c) A power in a trustee to select a beneficiary from an indefinite class is valid. If the power is not exercised within a reasonable time, the power fails and the property subject to the power passes to the persons who would have taken the property if the power had not been conferred.

(d) No trust is invalid or terminated, and title to trust assets is not merged, because the trustee or trustees are the same person or persons as the beneficiaries of the trust.

(e) Passive trusts of real or personal property are abolished. An attempt to create a passive trust vests the entire estate granted in the beneficiary.

Sec. 3. **[501C.0408] TRUST FOR CARE OF ANIMAL.**

Subdivision 1. **Creation of an animal trust authorized; termination.** A trust may be created to provide for the care of an animal alive during the settlor's lifetime. The trust terminates upon the death of the animal or, if the trust was created to provide for the care of more than one animal alive during the settlor's lifetime, upon the death of the last surviving animal. Notwithstanding the foregoing, the trust may not be enforced for more than 90 years.

Subd. 2. **Enforcement of trust.** A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is appointed, by a person appointed by a court. A person having

an interest in the welfare of the animal may request the court to appoint a person to enforce the trust or to remove an appointed person.

Subd. 3. **Application of trust property.** Property of a trust authorized by this section may be applied only to the trust's intended use, except to the extent a court determines that the value of the trust property exceeds the amount required for the intended use. Upon termination of the trust, or if the court determines the trust has excess funds, the trustee shall transfer the unexpended or excess trust property pursuant to the terms of the trust instrument or, if there is no provision in the trust instrument, then the trust passes to the settlor's heirs-at-law determined as if the settlor died intestate domiciled in this state at the time of distribution.

Subd. 4. **Public health programs and trusts.** An irrevocable inter vivos trust created under this section is subject to section 501C.1206.

Sec. 4. Minnesota Statutes 2015 Supplement, section 501C.0409, is amended to read:

501C.0409 NONCHARITABLE TRUST WITHOUT ASCERTAINABLE BENEFICIARY.

Except as otherwise provided by law in section 501C.0408 or by another statute, the following rules apply:

(1) A trust may be created for a noncharitable purpose without a definite or definitely ascertainable beneficiary or for a noncharitable but otherwise valid purpose to be selected by the trustee. The trust may not be enforced for more than 21 years.

(2) A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if no person is so appointed, by a person appointed by the court.

(3) Property of a trust authorized by this section may be applied only to its intended use, except to the extent the court determines that the value of the trust property exceeds the amount required for the intended use. Except as otherwise provided in the terms of the trust, property not required for the intended use must be distributed to the settlor, if then living, otherwise to the settlor's successors in interest.

ARTICLE 2

PROBATE PROVISIONS MODIFIED

Section 1. Minnesota Statutes 2014, section 484.73, subdivision 2, is amended to read:

Subd. 2. **Exclusions.** Judicial arbitration may not be used to dispose of matters relating to ~~guardianship, conservatorship, or civil commitment~~, matters within the juvenile court jurisdiction involving children in need of protection or services or delinquency, matters involving termination of parental rights under sections 260C.301 to 260C.328, or matters arising under sections 518B.01, 626.557, or 144.651 to 144.652.

Sec. 2. **[521A.01] SHORT TITLE.**

This chapter may be cited as the "Revised Uniform Fiduciary Access to Digital Assets Act."

Sec. 3. **[521A.02] DEFINITIONS.**

Subdivision 1. **Applicability.** The definitions in this section apply to this chapter.

Subd. 2. **Account.** "Account" means an arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user.

Subd. 3. **Agent.** "Agent" means an attorney-in-fact granted authority under a durable or nondurable power of attorney.

Subd. 4. **Carries.** "Carries" means engages in the transmission of an electronic communication.

Subd. 5. **Catalog of electronic communications.** "Catalog of electronic communications" means information that identifies each person with which a user has had an electronic communication, the time and date of the communication, and the electronic address of the person.

Subd. 6. **Conservator.** "Conservator" means a person appointed by a court to manage the estate of a living individual. The term includes a limited conservator, or unlimited under section 524.5-401.

Subd. 7. **Content of an electronic communication.** "Content of an electronic communication" means information concerning the substance or meaning of the communication that:

(1) has been sent or received by a user;

(2) is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing service to the public; and

(3) is not readily accessible to the public.

Subd. 8. **Court.** "Court" has the meaning given in section 524.1-201, clause (9).

Subd. 9. **Custodian.** "Custodian" means a person that carries, maintains, processes, receives, or stores a digital asset of a user.

Subd. 10. **Designated recipient.** "Designated recipient" means a person chosen by a user using an online tool to administer digital assets of the user.

Subd. 11. **Digital asset.** "Digital asset" means an electronic record in which an individual has a right or interest. The term does not include an underlying asset or liability unless the asset or liability is itself an electronic record.

Subd. 12. **Electronic.** "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

Subd. 13. **Electronic communication.** "Electronic communication" has the meaning given in United States Code, title 18, section 2510(12), as amended.

Subd. 14. **Electronic communication service.** "Electronic communication service" means a custodian that provides to a user the ability to send or receive an electronic communication.

Subd. 15. **Fiduciary.** "Fiduciary" means an original, additional, or successor personal representative, conservator, agent, or trustee.

Subd. 16. **Information.** "Information" means data, text, images, videos, sounds, codes, computer programs, software, databases, or similar material.

Subd. 17. **Online tool.** "Online tool" means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

Subd. 18. **Person.** "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

Subd. 19. **Personal representative.** "Personal representative" has the meaning given in section 524.1-201.

Subd. 20. **Power of attorney.** "Power of attorney" means a record that grants an agent authority to act in the place of a principal, under chapter 523.

Subd. 21. **Principal.** "Principal" means an individual who grants authority to an agent in a power of attorney.

Subd. 22. **Protected person.** "Protected person" means an individual for whom a conservator has been appointed. The term includes an individual for whom an application for the appointment of a conservator is pending.

Subd. 23. **Record.** "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Subd. 24. **Remote computing service.** "Remote computing service" means a custodian that provides to a user computer processing services or the storage of digital assets by means of an electronic communications system, as defined in United States Code, title 18, section 2510(14), as amended.

Subd. 25. **Terms-of-service agreement.** "Terms-of-service agreement" means an agreement that controls the relationship between a user and a custodian.

Subd. 26. **Trustee.** "Trustee" means a fiduciary with legal title to property under an agreement or declaration that creates a beneficial interest in another. The term includes a successor trustee.

Subd. 27. **User.** "User" means a person that has an account with a custodian.

Subd. 28. **Will.** "Will" includes a codicil, testamentary instrument that only appoints an executor, and an instrument that revokes or revises a testamentary instrument.

Sec. 4. **[521A.03] APPLICABILITY.**

(a) This chapter applies to:

- (1) a fiduciary acting under a will or power of attorney;
- (2) a personal representative acting for a decedent;
- (3) a conservatorship proceeding; and
- (4) a trustee acting under a trust.

(b) This chapter applies to a custodian if the user resides in this state or resided in this state at the time of the user's death.

(c) This chapter does not apply to a digital asset of an employer used by an employee in the ordinary course of the employer's business.

Sec. 5. [521A.04] USER DIRECTION FOR DISCLOSURE OF DIGITAL ASSETS.

(a) A user may use an online tool to direct the custodian to disclose to a designated recipient or not to disclose some or all of the user's digital assets, including the content of electronic communications. If the online tool allows the user to modify or delete a direction at all times, a direction regarding disclosure using an online tool overrides a contrary direction by the user in a will, trust, power of attorney, or other record.

(b) If a user has not used an online tool to give direction under paragraph (a) or if the custodian has not provided an online tool, the user may allow or prohibit in a will, trust, power of attorney, or other record disclosure to a fiduciary of some or all of the user's digital assets, including the content of electronic communications sent or received by the user.

(c) A user's direction under paragraph (a) or (b) overrides a contrary provision in a terms-of-service agreement that does not require the user to act affirmatively and distinctly from the user's assent to the terms of service.

Sec. 6. [521A.05] TERMS-OF-SERVICE AGREEMENT.

(a) This chapter does not change or impair a right of a custodian or a user under a terms-of-service agreement to access and use digital assets of the user.

(b) This chapter does not give a fiduciary or designated recipient any new or expanded rights other than those held by the user for whom, or for whose estate, the fiduciary or designated recipient acts or represents.

(c) A fiduciary's or designated recipient's access to digital assets may be modified or eliminated by a user, by federal law, or by a terms-of-service agreement if the user has not provided direction under section 521A.04.

Sec. 7. [521A.06] PROCEDURE FOR DISCLOSING DIGITAL ASSETS.

(a) When disclosing digital assets of a user under this chapter, the custodian may, at its sole discretion:

(1) grant a fiduciary or designated recipient full access to the user's account;

(2) grant a fiduciary or designated recipient partial access to the user's account sufficient to perform the tasks with which the fiduciary or designated recipient is charged; or

(3) provide a fiduciary or designated recipient a copy in a record of any digital asset that, on the date the custodian received the request for disclosure, the user could have accessed if the user were alive and had full capacity and access to the account.

(b) A custodian may assess a reasonable administrative charge for the cost of disclosing digital assets under this chapter.

(c) A custodian need not disclose under this chapter a digital asset deleted by a user.

(d) If a user directs or a fiduciary requests a custodian to disclose under this chapter some, but not all, of the user's digital assets, the custodian need not disclose the assets if segregation of the assets would

impose an undue burden on the custodian. If the custodian believes the direction or request imposes an undue burden, the custodian or fiduciary may seek an order from the court to disclose:

- (1) a subset limited by date of the user's digital assets;
- (2) all of the user's digital assets to the fiduciary or designated recipient;
- (3) none of the user's digital assets; or
- (4) all of the user's digital assets to the court for review in chambers.

Sec. 8. [521A.07] DISCLOSURE OF CONTENT OF ELECTRONIC COMMUNICATIONS OF DECEASED USER.

If a deceased user consented or a court directs disclosure of the content of an electronic communication of the user, the custodian shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the representative gives the custodian:

- (1) a written request for disclosure in physical or electronic form;
- (2) a certified copy of the death certificate of the user;
- (3) a certified copy of the letter of appointment of the representative, court order, or Affidavit of Collection of Personal Property executed under section 524.3-1201;
- (4) unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney, or other record evidencing the user's consent to disclosure of the content of electronic communications; and

(5) if requested by the custodian:

(i) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(ii) evidence linking the account to the user; or

(iii) a finding by the court that:

(A) the user had a specific account with the custodian, identifiable by the information specified in item (i);

(B) disclosure of the content of electronic communications of the user would not violate United States Code, title 18, section 2701 et seq., as amended; United States Code, title 47, section 222, as amended; or other applicable law;

(C) unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications; or

(D) disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate.

Sec. 9. [521A.08] DISCLOSURE OF OTHER DIGITAL ASSETS OF DECEASED USER.

Unless the user prohibited disclosure of digital assets or the court directs otherwise, a custodian shall disclose to the personal representative of the estate of a deceased user a catalog of electronic communications sent or received by the user and digital assets, other than the content of electronic communications, of the user if the representative gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) a certified copy of the death certificate of the user;

(3) a certified copy of the letter of appointment of the representative, court order, or Affidavit of Collection of Personal Property executed under section 524.3-1201; and

(4) if requested by the custodian:

(i) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(ii) evidence linking the account to the user;

(iii) an affidavit stating that disclosure of the user's digital assets is reasonably necessary for administration of the estate; or

(iv) a finding by the court that:

(A) the user had a specific account with the custodian, identifiable by the information specified in item (i); or

(B) disclosure of the user's digital assets is reasonably necessary for administration of the estate.

Sec. 10. [521A.09] DISCLOSURE OF CONTENT OF ELECTRONIC COMMUNICATIONS OF PRINCIPAL.

To the extent a power of attorney expressly grants an agent authority over the content of electronic communications sent or received by the principal and unless directed otherwise by the principal or the court, a custodian shall disclose to the agent the content if the agent gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) an original or copy of the power of attorney expressly granting the agent authority over the content of electronic communications of the principal;

(3) a certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(4) if requested by the custodian:

(i) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(ii) evidence linking the account to the principal.

Sec. 11. [521A.10] DISCLOSURE OF OTHER DIGITAL ASSETS OF PRINCIPAL.

Unless otherwise ordered by the court, directed by the principal, or provided by a power of attorney, a custodian shall disclose to an agent with specific authority over digital assets or general authority to act on behalf of a principal a catalog of electronic communications sent or received by the principal and digital assets, other than the content of electronic communications, of the principal if the agent gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) an original or a copy of the power of attorney that gives the agent specific authority over digital assets or general authority to act on behalf of the principal;

(3) a certification by the agent, under penalty of perjury, that the power of attorney is in effect; and

(4) if requested by the custodian:

(i) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

(ii) evidence linking the account to the principal.

Sec. 12. [521A.11] DISCLOSURE OF DIGITAL ASSETS HELD IN TRUST WHEN TRUSTEE IS ORIGINAL USER.

Unless otherwise ordered by the court or provided in a trust, a custodian shall disclose to a trustee that is an original user of an account any digital asset of the account held in trust, including a catalog of electronic communications of the trustee and the content of electronic communications.

Sec. 13. [521A.12] DISCLOSURE OF CONTENT OF ELECTRONIC COMMUNICATIONS HELD IN TRUST WHEN TRUSTEE NOT ORIGINAL USER.

Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose to a trustee that is not an original user of an account the content of an electronic communication sent or received by an original or successor user and carried, maintained, processed, received, or stored by the custodian in the account of the trust if the trustee gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) a certified copy of the trust instrument or a certification of the trust under section 501C.1013 that includes consent to disclosure of the content of electronic communications to the trustee;

(3) a certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(4) if requested by the custodian:

(i) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(ii) evidence linking the account to the trust.

Sec. 14. [521A.13] DISCLOSURE OF OTHER DIGITAL ASSETS HELD IN TRUST WHEN TRUSTEE NOT ORIGINAL USER.

Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose to a trustee that is not an original user of an account a catalog of electronic communications sent or received by an original or successor user and stored, carried, or maintained by the custodian in an account of the trust and any digital assets, other than the content of electronic communications, in which the trust has a right or interest if the trustee gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) a certified copy of the trust instrument or a certification of the trust under section 501C.1013;

(3) a certification by the trustee, under penalty of perjury, that the trust exists and the trustee is a currently acting trustee of the trust; and

(4) if requested by the custodian:

(i) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

(ii) evidence linking the account to the trust.

Sec. 15. [521A.14] DISCLOSURE OF DIGITAL ASSETS TO CONSERVATOR OF PROTECTED PERSON.

(a) After an opportunity for a hearing under chapter 524, the court may grant a conservator access to the digital assets of a protected person.

(b) Unless otherwise ordered by the court or directed by the user, a custodian shall disclose to a conservator the catalog of electronic communications sent or received by a protected person and any digital assets, other than the content of electronic communications, in which the protected person has a right or interest if the conservator gives the custodian:

(1) a written request for disclosure in physical or electronic form;

(2) a certified copy of the court order that gives the conservator authority over the digital assets of the protected person; and

(3) if requested by the custodian:

(i) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the account of the protected person; or

(ii) evidence linking the account to the protected person.

(c) A conservator with general authority to manage the assets of a protected person may request a custodian of the digital assets of the protected person to suspend or terminate an account of the protected person for good cause. A request made under this section must be accompanied by a certified copy of the court order giving the conservator authority over the protected person's property.

Sec. 16. **[521A.15] FIDUCIARY DUTY AND AUTHORITY.**

(a) The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including:

- (1) the duty of care;
- (2) the duty of loyalty; and
- (3) the duty of confidentiality.

(b) A fiduciary's or designated recipient's authority with respect to a digital asset of a user:

- (1) except as otherwise provided in section 521A.04, is subject to the applicable terms of service;
- (2) is subject to other applicable law, including copyright law;
- (3) in the case of a fiduciary, is limited by the scope of the fiduciary's duties; and
- (4) may not be used to impersonate the user.

(c) A fiduciary with authority over the property of a decedent, protected person, principal, or settlor has the right to access any digital asset in which the decedent, protected person, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.

(d) A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, protected person, principal, or settlor for the purpose of applicable computer fraud and unauthorized computer access laws, including section 609.891.

(e) A fiduciary with authority over the tangible personal property of a decedent, protected person, principal, or settlor:

- (1) has the right to access the property and any digital asset stored in it; and
- (2) is an authorized user for the purpose of computer fraud and unauthorized computer access laws, including section 609.891.

(f) A custodian may disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.

(g) A fiduciary of a user may request a custodian to terminate the user's account. A request for termination must be in writing, in either physical or electronic form, and accompanied by:

- (1) if the user is deceased, a certified copy of the death certificate of the user;
- (2) a certified copy of the letter of appointment of the representative or a small estate affidavit or court order, court order, power of attorney, or trust giving the fiduciary authority over the account; and

(3) if requested by the custodian:

(i) a number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

(ii) evidence linking the account to the user; or

(iii) a finding by the court that the user had a specific account with the custodian, identifiable by the information specified in item (i).

Sec. 17. [521A.16] CUSTODIAN COMPLIANCE AND IMMUNITY.

(a) Not later than 60 days after receipt of the information required under sections 521A.07 to 521A.15, a custodian shall comply with a request under this chapter from a fiduciary or designated recipient to disclose digital assets or terminate an account. If the custodian fails to comply, the fiduciary or designated recipient may apply to the court for an order directing compliance.

(b) An order under paragraph (a) directing compliance must contain a finding that compliance is not in violation of United States Code, title 18, section 2702, as amended.

(c) A custodian may notify the user that a request for disclosure or to terminate an account was made under this chapter.

(d) A custodian may deny a request under this chapter from a fiduciary or designated recipient for disclosure of digital assets or to terminate an account if the custodian is aware of any lawful access to the account following the receipt of the fiduciary's request.

(e) This chapter does not limit a custodian's ability to obtain or require a fiduciary or designated recipient requesting disclosure or termination under this chapter to obtain a court order which:

(1) specifies that an account belongs to the protected person or principal;

(2) specifies that there is sufficient consent from the protected person or principal to support the requested disclosure; and

(3) contains a finding required by law other than this chapter.

(f) A custodian and its officers, employees, and agents are immune from liability for an act or omission done in good faith in compliance with this chapter.

Sec. 18. [521A.17] UNIFORMITY OF APPLICATION AND CONSTRUCTION.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 19. [521A.18] RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, United States Code, title 15, section 7001 et seq., but does not modify, limit, or supersede section 101(c) of that act, United States Code, title 15, section 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, United States Code, title 15, section 7003(b).

Sec. 20. [521A.19] SEVERABILITY.

If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Sec. 21. Minnesota Statutes 2014, section 524.1-201, is amended to read:

524.1-201 GENERAL DEFINITIONS.

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

- (1) "Adoptee" means an individual who is adopted.
- (2) "Application" means a written request to the registrar for an order of informal probate or appointment under article III, part 3.
- (3) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse.
- (4) "Beneficiary," as it relates to trust beneficiaries, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer and as it relates to a charitable trust, includes any person entitled to enforce the trust.
- (5) "Birth mother" means a woman who gives birth to a child, including a woman who is the child's genetic mother and including a woman who gives birth to a child of assisted reproduction. "Birth mother" does not include a woman who gives birth pursuant to a gestational agreement.
- (6) "Child" includes any individual entitled to take as a child under law by intestate succession from the parent whose relationship is involved and excludes any person who is only a stepchild, a foster child, a grandchild or any more remote descendant.
- (7) "Child of assisted reproduction" means a child conceived by means of assisted reproduction by a woman other than a child conceived pursuant to a gestational agreement.
- (8) "Claims" includes liabilities of the decedent whether arising in contract or otherwise and liabilities of the estate which arise after the death of the decedent including funeral expenses and expenses of administration. The term does not include taxes, demands or disputes regarding title of a decedent to specific assets alleged to be included in the estate, tort claims, foreclosure of mechanic's liens, or to actions pursuant to section 573.02.
- (9) "Court" means the court or branch having jurisdiction in matters relating to the affairs of decedents. This court in this state is known as the district court.
- (10) "Conservator" means a person who is appointed by a court to manage the estate of a protected person.
- (11) "Descendant" of an individual means all of the individual's descendants of all generations, with the relationship of parent and child at each generation being determined by the definition of child and parent contained in this section.
- (12) "Devise," when used as a noun, means a testamentary disposition of real or personal property and when used as a verb, means to dispose of real or personal property by will.
- (13) "Devisee" means any person designated in a will to receive a devise. In the case of a devise to an existing trust or trustee, or to a trustee on trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees.

(14) "Disability" means cause for appointment of a conservator as described in section 524.5-401, or a protective order as described in section 524.5-412.

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

(16) "Divorce" includes an annulment, dissolution, and declaration of invalidity of marriage.

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

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

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

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

(21) "Functioned as a parent of the child" means behaving toward a child in a manner consistent with being the child's parent and performing functions that are customarily performed by a parent, including fulfilling parental responsibilities toward the child, recognizing or holding out the child as the individual's child, materially participating in the child's upbringing, and residing with the child in the same household as a regular member of that household.

(22) "Genetic father" means the man whose sperm fertilized the egg of a child's genetic mother. If the father-child relationship is established under the presumption of paternity under chapter 257, "genetic father" means only the man for whom that relationship is established.

(23) "Genetic mother" means the woman whose egg was fertilized by the sperm of a child's genetic father.

(24) "Genetic parent" means a child's genetic father or genetic mother.

(25) "Gestational agreement" means an agreement for assisted reproduction in which a woman agrees to carry a child to birth for an intended parent or intended parents.

(26) "Governing instrument" means a deed; will; trust; insurance or annuity policy; account with POD designation; security registered in beneficiary form (TOD); transfer on death (TOD) deed; pension, profit-sharing, retirement, or similar benefit plan; instrument creating or exercising a power of appointment or a power of attorney; or a dispositive, appointive, or nominative instrument of any similar type.

~~(26)~~ (27) "Guardian" means a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment, but excludes one who is merely a guardian ad litem.

~~(27)~~ (28) "Heirs" means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

~~(28)~~ (29) "Incapacitated person" is as described in section 524.5-102, subdivision 6, other than a minor.

~~(29)~~ (30) "Incapacity" when used in sections 524.2-114 to 524.2-120 means the inability of an individual to function as a parent of a child because of the individual's physical or mental condition.

~~(30)~~ (31) "Informal proceedings" means those conducted by the judge, the registrar, or the person or persons designated by the judge for probate of a will or appointment of a personal representative in accordance with sections 524.3-301 to 524.3-311.

~~(31)~~ (32) "Intended parent" means an individual who entered into a gestational agreement providing that the individual will be the parent of a child born to a woman by means of assisted reproduction, including an individual who has a genetic relationship with the child.

~~(32)~~ (33) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries and any others having a property right in or claim against the estate of a decedent, ward or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative, and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding.

~~(33)~~ (34) "Lease" includes an oil, gas, or other mineral lease.

~~(34)~~ (35) "Letters" includes letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship.

~~(35)~~ (36) "Mortgage" means any conveyance, agreement or arrangement in which property is used as security.

~~(36)~~ (37) "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of death.

~~(37)~~ (38) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal entity.

~~(38)~~ (39) "Person" means an individual, a corporation, an organization, or other legal entity.

~~(39)~~ (40) "Personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status. "General personal representative" excludes special administrator.

~~(40)~~ (41) "Petition" means a written request to the court for an order after notice.

~~(41)~~ (42) "Proceeding" includes action at law and suit in equity.

~~(42)~~ (43) "Property" includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

~~(43)~~ (44) "Protected person" is as described in section 524.5-102, subdivision 14.

~~(44)~~ (45) "Registrar" refers to the judge of the court or the person designated by the court to perform the functions of registrar as provided in section 524.1-307.

~~(45)~~ (46) "Relative" means a grandparent or a descendant of a grandparent.

~~(46)~~ (47) "Security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.

~~(47)~~ (48) "Settlement," in reference to a decedent's estate, includes the full process of administration, distribution and closing.

~~(48)~~ (49) "Special administrator" means a personal representative as described by sections 524.3-614 to 524.3-618.

~~(49)~~ (50) "State" includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

~~(50)~~ (51) "Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

~~(51)~~ (52) "Successors" means those persons, other than creditors, who are entitled to property of a decedent under the decedent's will, this chapter or chapter 525. "Successors" also means a funeral director or county government that provides the funeral and burial of the decedent, or a state or county agency with a claim authorized under section 256B.15.

~~(52)~~ (53) "Supervised administration" refers to the proceedings described in sections 524.3-501 to 524.3-505.

~~(53)~~ (54) "Testacy proceeding" means a proceeding to establish a will or determine intestacy.

~~(54)~~ (55) "Third-party donor" means an individual who produces eggs or sperm used for assisted reproduction, whether or not for consideration. The term does not include:

(i) a husband who provides sperm, or a wife who provides eggs, that are used for assisted reproduction by the wife;

(ii) the birth mother of a child of assisted reproduction; or

(iii) a man who has been determined under section 524.2-120, subdivision 4 or 5, to have a parent-child relationship with a child of assisted reproduction.

~~(55)~~ (56) "Trust" includes any express trust, private or charitable, with additions thereto, wherever and however created. It also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. "Trust" excludes other constructive trusts, and it excludes resulting trusts, conservatorships, personal representatives, trust accounts as defined in chapter 528, custodial arrangements pursuant to sections 149A.97, 318.01 to 318.06, 527.21 to 527.44, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.

~~(56)~~ (57) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by court.

~~(57)~~ (58) "Ward" is as described in section 524.5-102, subdivision 17.

~~(58)~~ (59) "Will" includes codicil and any testamentary instrument which merely appoints an executor or revokes or revises another will.

Sec. 22. Minnesota Statutes 2014, section 524.2-102, is amended to read:

524.2-102 SHARE OF THE SPOUSE.

The intestate share of a decedent's surviving spouse is:

(1) the entire intestate estate if:

(i) no descendant of the decedent survives the decedent; or

(ii) all of the decedent's surviving descendants are also descendants of the surviving spouse and there is no other descendant of the surviving spouse who survives the decedent;

(2) the first ~~\$150,000~~ \$225,000, plus one-half of any balance of the intestate estate, if all of the decedent's surviving descendants are also descendants of the surviving spouse and the surviving spouse has one or more surviving descendants who are not descendants of the decedent, or if one or more of the decedent's surviving descendants are not descendants of the surviving spouse.

Sec. 23. Minnesota Statutes 2014, section 524.2-202, is amended to read:

524.2-202 ELECTIVE SHARE.

(a) **Elective share amount.** The surviving spouse of a decedent who dies domiciled in this state has a right of election, under the limitations and conditions stated in this part, to take an elective-share amount equal to the value of the elective-share percentage of the augmented estate, determined by the length of time the spouse and the decedent were married to each other, in accordance with the following schedule:

If the decedent and the spouse were married to each other:	The elective-share percentage is:
Less than one year	Supplemental amount only
One year but less than two years	Three percent of the augmented estate
Two years but less than three years	Six percent of the augmented estate
Three years but less than four years	Nine percent of the augmented estate
Four years but less than five years	12 percent of the augmented estate
Five years but less than six years	15 percent of the augmented estate
Six years but less than seven years	18 percent of the augmented estate
Seven years but less than eight years	21 percent of the augmented estate
Eight years but less than nine years	24 percent of the augmented estate

Nine years but less than ten years	27 percent of the augmented estate
Ten years but less than 11 years	30 percent of the augmented estate
11 years but less than 12 years	34 percent of the augmented estate
12 years but less than 13 years	38 percent of the augmented estate
13 years but less than 14 years	42 percent of the augmented estate
14 years but less than 15 years	46 percent of the augmented estate
15 years or more	50 percent of the augmented estate

(b) **Supplemental elective-share amount.** If the sum of the amounts described in sections 524.2-207, 524.2-209, paragraph (a), clause (1), and that part of the elective-share amount payable from the decedent's probate estate and nonprobate transfers to others under section 524.2-209, paragraphs (b) and (c), is less than ~~\$50,000~~ \$75,000, the surviving spouse is entitled to a supplemental elective-share amount equal to ~~\$50,000~~ \$75,000, minus the sum of the amounts described in those sections. The supplemental elective-share amount is payable from the decedent's probate estate and from recipients of the decedent's nonprobate transfers to others in the order of priority set forth in section 524.2-209, paragraphs (b) and (c).

(c) **Effect of election on statutory benefits.** If the right of election is exercised by or on behalf of the surviving spouse, the surviving spouse's homestead rights and other allowances under sections 524.2-402, 524.2-403 and 524.2-404, if any, are not charged against but are in addition to the elective-share and supplemental elective-share amounts.

(d) **Nondomiciliary.** The right, if any, of the surviving spouse of a decedent who dies domiciled outside this state to take an elective share in property in this state is governed by the law of the decedent's domicile at death.

Sec. 24. Minnesota Statutes 2014, section 524.2-301, is amended to read:

524.2-301 ENTITLEMENT OF SPOUSE; PREMARITAL WILL.

(a) If a testator married after making a will and the spouse survives the testator, the surviving spouse shall receive a share of the estate of the testator equal in value to that which the surviving spouse would have received if the testator had died intestate, unless:

(1) provision has been made for, or waived by, the spouse by prenuptial or postnuptial agreement;

(2) the will or other written evidence discloses an intention not to make provision for the spouse; ~~or~~

(3) ~~the spouse is provided for~~ person, who was the surviving spouse at death, was designated as a devisee, or is the beneficiary of a trust referenced, in the will; or

(4) the testator provided for the spouse by transfer outside the will and the intent that the transfer be in lieu of a testamentary provision is shown by the testator's written statements or may be reasonably inferred from the amount of the transfer or other evidence.

(b) In satisfying the share provided by this section, devises made by the will other than a devise to a child of the testator who was born before the testator married the surviving spouse and who is not a child

of the surviving spouse or a devise or substitute gift under section 524.2-603 or 524.2-604 to a descendant of such a child, abate first as otherwise provided in section 524.3-902.

Sec. 25. Minnesota Statutes 2014, section 524.2-403, is amended to read:

524.2-403 EXEMPT PROPERTY.

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

(1) property not exceeding ~~\$10,000~~ \$15,000 in value in excess of any security interests therein, in household furniture, furnishings, appliances, and personal effects, subject to an award of sentimental value property under section 525.152; and

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

(b) If there is no surviving spouse, the decedent's children are entitled jointly to the same property as provided in paragraph (a), except that where it appears from the decedent's will a child was omitted intentionally, the child is not entitled to the rights conferred by this section.

(c) If encumbered chattels are selected and the value in excess of security interests, plus that of other exempt property, is less than ~~\$10,000~~ \$15,000, or if there is not ~~\$10,000~~ \$15,000 worth of exempt property in the estate, the surviving spouse or children are entitled to other personal property of the estate, if any, to the extent necessary to make up the ~~\$10,000~~ \$15,000 value.

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

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

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

Sec. 26. Minnesota Statutes 2014, section 524.2-404, is amended to read:

524.2-404 FAMILY ALLOWANCE.

(a) In addition to the right to the homestead and exempt property, the decedent's surviving spouse and minor children whom the decedent was obligated to support, and children who were in fact being supported by the decedent, shall be allowed a reasonable family allowance in money out of the estate for their maintenance as follows:

(1) for one year if the estate is inadequate to discharge allowed claims; or

(2) for 18 months if the estate is adequate to discharge allowed claims.

(b) The amount of the family allowance may be determined by the personal representative in an amount not to exceed ~~\$1,500~~ \$2,300 per month.

(c) The family allowance is payable to the surviving spouse, if living; otherwise to the children, their guardian or conservator, or persons having their care and custody.

(d) The family allowance is exempt from and has priority over all claims.

(e) The family allowance is not chargeable against any benefit or share passing to the surviving spouse or children by the will of the decedent unless otherwise provided, by intestate succession or by way of elective share. The death of any person entitled to family allowance does not terminate the right of that person to the allowance.

(f) The personal representative or an interested person aggrieved by any determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief, which may include a family allowance other than that which the personal representative determined or could have determined.

Sec. 27. Minnesota Statutes 2014, section 524.2-606, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(3) in the case of a trustee, the settlor's incapacity ceased and the settlor survived for one year after the incapacity ceased.

(e) For the purposes of the references in paragraph (b) to the trustee of a revocable trust during the period of the settlor's incapacity, paragraph (b) does not apply to a specific devise contained in a will if:

(1) the revocable trust provides for the transfer, devise, or distribution of all trust assets held as of the death of the settlor to persons or entities other than the settlor's estate; and

(2) the initial transfer of devised property into the trust occurred prior to the settlor's incapacity.

(e) (f) For the purposes of the references in paragraph (b) to an agent acting within the authority of a durable power of attorney for an incapacitated principal or the trustee of a revocable trust during the period of the settlor's incapacity, (i) "incapacitated principal" means a principal who is an incapacitated person as defined in section 524.5-102, subdivision 6, and the "period of the settlor's incapacity" means a period when the settlor of a revocable trust is an incapacitated person as defined by the trust instrument, or, if the trust instrument is silent, as defined in section 524.5-102, subdivision 6, and (ii) a finding of the principal's or settlor's incapacity need not occur during the principal's or settlor's life.

Sec. 28. **[524.2-805] REFORMATION TO CORRECT MISTAKES.**

The court may reform the terms of a governing instrument, even if unambiguous, to conform the terms to the transferor's intention, if it is proved by clear and convincing evidence what the transferor's intention was and that the terms of the governing instrument were affected by a mistake of a fact or law, whether in expression or inducement.

Sec. 29. **[524.2-806] MODIFICATION TO ACHIEVE TRANSFEROR'S TAX OBJECTIVES.**

Subdivision 1. **Permitted purposes.** In order to achieve tax objectives that are clearly provided for in the transferor's will, the court may modify the terms of a governing instrument, in a manner that is not contrary to the transferor's probable intention, to ensure that the governing instrument correctly creates an interest:

(1) in which a surviving spouse has a qualifying income interest with respect to which an election has been or will be made in whole or in part under section 2056(b)(7), 2056A, or 2523(f) of the Internal Revenue Code;

(2) which will qualify for the marital deduction under section 2056 or 2056A of the Internal Revenue Code, by election or otherwise;

(3) which will qualify for the charitable deduction under section 2055, 2522, or 642(c) of the Internal Revenue Code;

(4) that is to be excepted, excluded, or exempt from or under chapter 13 (tax on generation skipping transfers) of the Internal Revenue Code; or

(5) in a trust that satisfies the criteria for qualified subchapter S trusts under section 1361(d) of the Internal Revenue Code.

Subd. 2. **May be retroactive.** The court may provide that a modification under this section has retroactive effect.

Sec. 30. Minnesota Statutes 2014, section 524.3-406, is amended to read:

524.3-406 FORMAL TESTACY PROCEEDINGS; CONTESTED CASES; TESTIMONY OF ATTESTING WITNESSES.

(a) If evidence concerning execution of an attested will which is not self-proved is necessary in contested cases, the testimony of at least one of the attesting witnesses, if within the state competent and able to testify, is required. Due execution of a will may be proved by other evidence, including an affidavit of an attesting witness. An attestation clause that is signed by the attesting witnesses raises a rebuttable presumption that the events recited in the clause occurred.

(b) If the will is self-proved, compliance with signature requirements for execution is conclusively presumed and other requirements of execution are presumed subject to rebuttal without the testimony of any witness upon filing the will and the acknowledgment and affidavits annexed or attached thereto, unless there is proof of fraud or forgery affecting the acknowledgment or affidavit.

Sec. 31. Minnesota Statutes 2014, section 524.3-1201, is amended to read:

524.3-1201 COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT.

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

(1) the value of the entire probate estate, determined as of the date of death, wherever located, including specifically any contents of a safe deposit box, less liens and encumbrances, does not exceed ~~\$50,000~~ \$75,000;

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

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

(4) if presented, by a state or county agency with a claim authorized by section 256B.15, to a financial institution with a multiple-party account in which the decedent had an interest at the time of death, the amount of the affiant's claim and a good faith estimate of the extent to which the decedent was the source of funds or beneficial owner of the account; and

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

(b) A transfer agent of any security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of an affidavit as provided in subsection (a).

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

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

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

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

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

Sec. 32. Minnesota Statutes 2014, section 524.3-1203, subdivision 5, is amended to read:

Subd. 5. **Exhaustion of estate.** In any summary, special, or other administration in which it appears that the estate will not be exhausted in payment of the priority items enumerated in subdivisions 1 to 4, the estate may nevertheless be summarily closed without further notice, and the property assigned to the proper persons, if the gross probate estate, exclusive of any exempt homestead as defined in section 524.2-402, and any exempt property as defined in section 524.2-403, does not exceed the value of ~~\$100,000~~ \$150,000. If the closing and distribution of assets is made pursuant to the terms of a will, no decree shall issue until a hearing has been held for formal probate of the will as provided in sections 524.3-401 to 524.3-413.

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

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

Any judgment rendered for damages or the recovery of assets in such proceedings shall be upon petition and only after hearing held thereon on 14 days' notice of hearing and a copy of petition served personally upon the personal representative and the surety and upon any distributee or recipient of assets where applicable. Any action for the recovery of money or damages under this subdivision is subject to the time and other limitations imposed by section 524.1-304.

Sec. 33. **EFFECTIVE DATE.**

Sections 2 to 20 apply to fiduciaries acting under a governing instrument executed before, on, or after August 1, 2016.

ARTICLE 3

**ASSIGNMENT AND RECEIVERSHIP PROVISIONS;
SHORT FORM OF ASSIGNMENT CREATED**

Section 1. Minnesota Statutes 2014, section 559.17, subdivision 2, is amended to read:

Subd. 2. **Assignment; conditions.** A mortgagor may assign, as additional security for the debt secured by the mortgage, the rents and profits from the mortgaged real property, if the mortgage:

(1) was executed, modified or amended subsequent to August 1, 1977;

(2) secured an original principal amount of \$100,000 or more or is a lien upon residential real estate containing more than four dwelling units; and

(3) is not a lien upon property which was:

(i) entirely homesteaded as agricultural property; or

(ii) residential real estate containing four or fewer dwelling units where at least one of the units is homesteaded. The assignment may be enforced, but only against the nonhomestead portion of the mortgaged property, as follows:

(a) if, by the terms of an assignment, a receiver is to be appointed upon the occurrence of some specified event, and a showing is made that the event has occurred, the court shall, without regard to waste, adequacy of the security, or solvency of the mortgagor, appoint a receiver who shall, with respect to the excess cash remaining after application as provided in section 576.25, subdivision 5, apply it as prescribed by the assignment. If the assignment so provides, the receiver shall apply the excess cash in the manner set out herein from the date of appointment through the entire redemption period from any foreclosure sale. Subject to the terms of the assignment, the receiver shall have the powers and duties as set forth in section 576.25, subdivision 5; or

(b) if no provision is made for the appointment of a receiver in the assignment or if by the terms of the assignment a receiver may be appointed, the assignment shall be binding upon the assignor unless or until a receiver is appointed without regard to waste, adequacy of the security or solvency of the mortgagor, but only in the event of default in the terms and conditions of the mortgage, and only in the event the assignment requires the holder thereof to first apply the rents and profits received as provided in section 576.25, subdivision 5, or, as to an assignment executed prior to August 1, 2012, as provided in Minnesota Statutes 2010, section 576.01, subdivision 2, in which case the same shall operate against and be binding

upon the occupiers of the premises from the date of recording by the holder of the assignment in the office of the county recorder or the office of the registrar of titles for the county in which the property is located of a notice of default in the terms and conditions of the mortgage and service of a copy of the notice upon the occupiers of the premises. The holder of the assignment shall apply the rents and profits received in accordance with the terms of the assignment, and, if the assignment so provides, for the entire redemption period from any foreclosure sale. A holder of an assignment who enforces it in accordance with this clause shall not be deemed to be a mortgagee in possession with attendant liability.

Nothing contained herein shall prohibit the right to reinstate the mortgage debt granted pursuant to section 580.30, nor the right to redeem granted pursuant to sections 580.23 and 581.10, and any excess cash, as that term is used herein, collected by the receiver under clause (a), or any rents and profits taken by the holder of the assignment under clause (b), shall be credited to the amount required to be paid to effect a reinstatement or redemption.

Sec. 2. Minnesota Statutes 2014, section 576.22, is amended to read:

576.22 APPLICABILITY OF CHAPTER AND OF COMMON LAW.

(a) This chapter applies to receiverships provided for in section 576.25, subdivisions 2 to 6, and to receiverships:

- (1) pursuant to section 193.147, in connection with a mortgage on an armory;
- (2) pursuant to section 223.17, subdivision 8, paragraph (b), in connection with a defaulting grain buyer;
- (3) pursuant to section 232.22, subdivision 7, paragraph (c), in connection with a defaulting public grain warehouse;
- (4) pursuant to section 296A.22, in connection with nonpayment of tax;
- (5) pursuant to ~~section~~ sections 302A.751, 302A.753, 308A.941, 308A.945, 308B.931, 308B.935, 317A.751, 317A.753, ~~or~~ 322B.833, and 322B.836, or in an action relating to the dissolution of ~~an~~ a foreign entity ~~and relating to, in like cases, with~~ property within the state of foreign entities;
- (6) pursuant to section 321.0703, in connection with the rights of a creditor of a partner or transferee;
- (7) pursuant to section 322.22, in connection with the rights of creditors of limited partners;
- (8) pursuant to section 323A.0504, in connection with a partner's transferable interest;
- (9) pursuant to section 453.55, in connection with bonds and notes;
- (10) pursuant to section 453A.05, in connection with bonds and notes;
- (11) pursuant to section 513.47, in connection with a proceeding for relief with respect to a transfer fraudulent as to a creditor or creditors;
- (12) pursuant to section 514.06, in connection with the severance of a building and resale;
- (13) pursuant to section 515.23, in connection with an action by a unit owners' association to foreclose a lien for nonpayment of delinquent assessments against condominium units;

(14) pursuant to section 518A.71, in connection with the failure to pay, or to provide security for, maintenance or support payments;

(15) pursuant to section 559.17, in connection with assignments of rents; however, any receiver appointed under section 559.17 shall be a limited receiver, and the court shall apply the provisions of this chapter to the extent not inconsistent with section 559.17;

(16) pursuant to section 571.84, in connection with a garnishee in possession of property subject to a garnishment proceeding;

(17) pursuant to section 575.05, in connection with property applied to judgment;

(18) pursuant to section 575.06, in connection with adverse claimants;

(19) pursuant to sections 582.05 to 582.10, in connection with mortgage foreclosures; however, any receiver appointed under sections 582.05 to 582.10 shall be a limited receiver, and the court shall apply the provisions of this chapter to the extent not inconsistent with sections 582.05 to 582.10;

(20) pursuant to section 609.904, in connection with criminal penalties; or

(21) pursuant to section 609.907, in connection with preservation of property subject to forfeiture.

(b) This chapter does not apply to any receivership in which the receiver is a state agency or in which the receiver is appointed, controlled, or regulated by a state agency unless otherwise provided by law.

(c) In receiverships not specifically referenced in paragraph (a) or (b), the court, in its discretion, may apply provisions of this chapter to the extent not inconsistent with the statutes establishing the receiverships.

(d) Unless explicitly displaced by this chapter, the provisions of other statutory law and the principles of common law remain in full force and effect and supplement the provisions of this chapter.

Sec. 3. Minnesota Statutes 2014, section 576.29, subdivision 1, is amended to read:

Subdivision 1. **Powers.** (a) A receiver, whether general or limited, shall have the following powers in addition to those specifically conferred by this chapter or otherwise by statute, rule, or order of the court:

(1) the power to collect, control, manage, conserve, and protect receivership property;

(2) the power to incur and pay expenses incidental to the receiver's exercise of the powers or otherwise in the performance of the receiver's duties;

(3) the power to assert rights, claims, causes of action, or defenses that relate to receivership property; and

(4) the power to seek and obtain instruction from the court with respect to any matter relating to the receivership property, the exercise of the receiver's powers, or the performance of the receiver's duties.

(b) In addition to the powers provided in paragraph (a), a general receiver shall have the power:

(1) to (i) assert, or when authorized by the court, to release, any rights, claims, causes of action, or defenses of the respondent to the extent any rights, claims, causes of action, or defenses are receivership property; (ii) maintain in the receiver's name or in the name of the respondent any action to enforce any right,

claim, cause of action, or defense; and (iii) intervene in actions in which the respondent is a party for the purpose of exercising the powers under this clause or requesting transfer of venue of the action to the court;

(2) to pursue any claim or remedy that may be asserted by a creditor of the respondent under sections 513.41 to 513.51;

(3) to compel any person, including the respondent, and any party, by subpoena pursuant to Rule 45 of the Minnesota Rules of Civil Procedure, to give testimony or to produce and permit inspection and copying of designated books, documents, electronically stored information, or tangible things with respect to receivership property or any other matter that may affect the administration of the receivership;

(4) to operate any business constituting receivership property in the ordinary course of the business, including ~~the use, sale, using, selling, or lease of~~ leasing property of the business or otherwise constituting receivership property, ~~and the~~; incurring and payment of expenses of the business or other receivership property; and hiring employees and appointing officers to act on behalf of the business;

(5) if authorized by an order of the court following notice and a hearing, to use, improve, sell, or lease receivership property other than in the ordinary course of business; and

(6) if appointed pursuant to section 302A.753, 308A.945, 308B.935, 317A.753, or 322B.836, to exercise all of the powers and authority provided by the section or order of the court.

Sec. 4. Minnesota Statutes 2014, section 576.30, is amended to read:

576.30 RECEIVER AS LIEN CREDITOR; REAL ESTATE PROPERTY RECORDING; SUBSEQUENT SALES OF REAL ESTATE PROPERTY.

Subdivision 1. **Receiver as lien creditor.** As of the time of appointment, the receiver shall have the powers and priority as if it were a creditor that obtained a judicial lien at the time of appointment pursuant to sections 548.09 and 550.10 on all of the receivership property, subject to satisfying the recording requirements as to real property described in subdivision 2.

Subd. 2. **Real estate property recording.** If any interest in real estate property is included in the receivership property, a notice of lis pendens shall be recorded as soon as practicable with the county recorder or registrar of titles, as appropriate, of the county in which the real property is located. The priority of the receiver as lien creditor against real property shall be from the time of recording of the notice of lis pendens, except as to persons with actual or implied knowledge of the appointment under section 507.34.

Subd. 3. **Subsequent sales of real estate property.** The following documents are prima facie evidence of the authority to sell and convey the real property:

(1) the notice of lis pendens;

(2) a court order authorizing the receiver to sell real property certified by the court administrator, and a deed executed by the receiver recorded with the county recorder or registrar of titles, as appropriate, of the county in which the real property is located, and upon execution of the deed by the receiver shall be prima facie evidence of the authority of authorizing the receiver to sell and convey, or cause the respondent to sell, real property described in the deed; and

(3) a deed executed by the receiver, or by the respondent if authorized by the court.

The court may also require a motion for an order for sale of the real property or a motion for an order confirming sale of the real property.

Sec. 5. Minnesota Statutes 2014, section 576.45, subdivision 3, is amended to read:

Subd. 3. **Termination by receiver.** For good cause, the court may authorize the receiver to terminate an executory contract. The receiver's right to possess or use property or receive services pursuant to the executory contract shall terminate at the termination of the executory contract. Except as to the claim against the receivership under subdivision 1, if a termination of an executory contract constitutes a breach of the executory contract, the termination shall create a claim equal to the damages, if any, for a breach of the contract as if the breach of contract had occurred immediately before the time of appointment. Any claim arising under this section for termination of an executory contract shall be presented or filed in the same manner as other claims in the receivership no later than the later of: (1) the time set for filing of claims in the receivership; or (2) 28 days after the notice by the receiver of the termination of the executory contract.

Sec. 6. Minnesota Statutes 2014, section 576.47, is amended to read:

576.47 ABANDONMENT OF PROPERTY.

The court may authorize the receiver to abandon to the respondent any receivership property that is burdensome or is not of material value to the receivership. ~~Property that is abandoned is no longer receivership property.~~

Sec. 7. Minnesota Statutes 2014, section 577.12, is amended to read:

577.12 REQUISITES.

A person may execute a written assignment of property to one or more assignees for the benefit of creditors in conformity with the provisions of this chapter. Every assignment for the benefit of creditors subject to this chapter made by an assignor of the whole or any part of the assignor's property, real or personal, for the benefit of creditors, shall be: (1) to a ~~resident of the state~~ person eligible to be a receiver under section 576.26, in writing, subscribed and acknowledged by the assignor, and (2) filed by the assignor or the assignee with the court administrator of the district court of the county in which the assignor, or one of the assignors if there is more than one, resides, or in which the principal place of business of an assignor engaged in business is located. The district court shall have supervision over the assignment property and of all proceedings under this chapter. The assignee shall be deemed to have submitted to the jurisdiction of the district court.

Sec. 8. Minnesota Statutes 2014, section 577.15, is amended to read:

577.15 ASSIGNEE AS LIEN CREDITOR; REAL ESTATE PROPERTY RECORDING.

Subdivision 1. **Assignee as lien creditor.** As of the filing of the assignment, the assignee shall have the powers and priority of a creditor that obtained a judicial lien at the time of assignment pursuant to sections 548.09 and 550.10 on all of the assignment property subject to satisfying the recording requirements as to real property described in subdivision 2.

Subd. 2. **Real estate property recording.** If any interest in real estate property is included in the assignment property, the assignment shall be effective as a deed, ~~and~~. A notice of a lis pendens shall be

recorded as soon as practicable with the county recorder or registrar of titles, as appropriate, of the county in which the real property is located. The priority of the assignee as lien creditor against real property shall be from the time of recording of the notice of lis pendens, except as to persons with actual or implied knowledge of the assignment under section 507.34. A short form of the assignment executed acknowledged by the assignor and certified by the court administrator assignee and a deed executed by the assignee shall be recorded with the county recorder or registrar of titles, as appropriate, of the county in which the real property is located, and upon execution of the deed by the assignee shall be prima facie evidence of the authority of the assignee to convey the real property described in the assignment. The short form of the assignment shall contain the following information:

- (1) the identity of the assignor and assignee;
- (2) the legal description of the real property;
- (3) the date of the assignment; and
- (4) a statement that the assignor has made an assignment under this chapter, and that the assignment has been accepted by the assignee.

ARTICLE 4

UPDATES TO THE MINNESOTA REVISED UNIFORM LIMITED LIABILITY COMPANY ACT

Section 1. Minnesota Statutes 2014, section 5.001, subdivision 2, is amended to read:

Subd. 2. **Business entity.** "Business entity" means an organization that is formed under chapter 300, 301, 302A, 303, 308, 308A, 308B, 315, 317, 317A, 319, 319A, 321, 322A, 322B, 322C, 323, or 323A and that has filed documents with the secretary of state.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 2. Minnesota Statutes 2014, section 5.25, subdivision 1, is amended to read:

Subdivision 1. **Who may be served.** A process, notice, or demand required or permitted by law to be served upon an entity governed by chapter 221, 302A, 303, 317A, 321, 322B, 322C, 323A, 330, 540, or 543 may be served on: (1) the registered agent, if any; (2) if no agent has been appointed then on an officer, manager, or general partner of the entity; or (3) if no agent, officer, manager, or general partner can be found at the address on file with the secretary of state, the secretary of state as provided in this section.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 3. Minnesota Statutes 2014, section 5.25, subdivision 3, is amended to read:

Subd. 3. **Service on certain business entities; auctioneers.** When service of process is to be made on the secretary of state for entities governed by chapter 302A, 317A, 321, 322B, 322C, 323, 330, or 543, the procedure in this subdivision applies. Service must be made by filing with the secretary of state one copy of the process, notice, or demand along with payment of a \$35 fee.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 4. Minnesota Statutes 2015 Supplement, section 5.25, subdivision 5, is amended to read:

Subd. 5. **Service on dissolved, withdrawn, or revoked business entity.** (a) Process, notice, or demand may be served on a dissolved, withdrawn, or revoked business entity that was governed by chapter 302A, 303, 317A, 321, 322B, 322C, or 323A as provided in this subdivision. The court shall determine if service is proper.

(b) If a business entity has voluntarily dissolved or has withdrawn its request for authority to transact business in this state, or a court has entered a decree of dissolution or revocation of authority to do business, service must be made according to subdivision 3 or 4, so long as claims are not barred under the provisions of the chapter that governed the business entity.

(c) If a business entity has been involuntarily dissolved or its authority to transact business in this state has been revoked, service must be made according to subdivision 3 or 4.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 5. Minnesota Statutes 2014, section 115D.03, subdivision 6a, is amended to read:

Subd. 6a. **Officer of the company.** "Officer of the company" means one of the following:

(1) an owner or sole proprietor;

(2) a partner;

(3) for a corporation incorporated under chapter 300, the president, secretary, treasurer, or other officer as provided for in the corporation's bylaws or certificate of incorporation;

(4) for a corporation incorporated under chapter 302A, an individual exercising the functions of the chief executive officer or the chief financial officer under section 302A.305 or another officer elected or appointed by the directors of the corporation under section 302A.311;

(5) for a corporation incorporated outside this state, an officer of the company as defined by the laws of the state in which the corporation is incorporated; or

(6) for a limited liability company organized under chapter 322B, the chief manager or treasurer; or

(7) for a limited liability company organized under chapter 322C, a member of a member-managed company, a manager of a manager-managed company, or any other officer provided for in the limited liability company's operating agreement.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 6. Minnesota Statutes 2014, section 116J.395, subdivision 3, is amended to read:

Subd. 3. **Eligible applicants.** Eligible applicants for grants awarded under this section include:

(1) an incorporated business or a partnership;

(2) a political subdivision;

(3) an Indian tribe;

(4) a Minnesota nonprofit organization organized under chapter 317A;

(5) a Minnesota cooperative association organized under chapter 308A or 308B; and

(6) a Minnesota limited liability corporation organized under chapter 322B or 322C for the purpose of expanding broadband access.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 7. Minnesota Statutes 2015 Supplement, section 124E.05, subdivision 1, is amended to read:

Subdivision 1. **Eligible authorizers.** The following organizations may authorize one or more charter schools:

(1) a school board, intermediate school district school board, or education district organized under sections 123A.15 to 123A.19;

(2) a charitable organization under section 501(c)(3) of the Internal Revenue Code of 1986, excluding a nonpublic sectarian or religious institution; any person other than a natural person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the nonpublic sectarian or religious institution; and any other charitable organization under this clause that in the federal IRS Form 1023, Part IV, describes activities indicating a religious purpose, that:

(i) is a member of the Minnesota Council of Nonprofits or the Minnesota Council on Foundations;

(ii) is registered with the attorney general's office; and

(iii) is incorporated in the state of Minnesota and has been operating continuously for at least five years but does not operate a charter school;

(3) a Minnesota private college, notwithstanding clause (2), that grants two- or four-year degrees and is registered with the Minnesota Office of Higher Education under chapter 136A; community college, state university, or technical college governed by the Board of Trustees of the Minnesota State Colleges and Universities; or the University of Minnesota;

(4) a nonprofit corporation subject to chapter 317A, described in section 317A.905, and exempt from federal income tax under section 501(c)(6) of the Internal Revenue Code of 1986, may authorize one or more charter schools if the charter school has operated for at least three years under a different authorizer and if the nonprofit corporation has existed for at least 25 years; or

(5) single-purpose authorizers formed as charitable, nonsectarian organizations under section 501(c)(3) of the Internal Revenue Code of 1986 and incorporated in the state of Minnesota under chapter 317A as a corporation with no members or under section 322B.975 or 322C.1101 as a nonprofit limited liability company for the sole purpose of chartering schools.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 8. Minnesota Statutes 2014, section 211B.15, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section, "corporation" means:

(1) a corporation organized for profit that does business in this state;

(2) a nonprofit corporation that carries out activities in this state; or

(3) a limited liability company formed under chapter 322B or 322C, or under similar laws of another state, that does business in this state.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 9. Minnesota Statutes 2014, section 216B.1612, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given them in this subdivision.

(b) "C-BED tariff" or "tariff" means a community-based energy development tariff.

(c) "Qualifying beneficiary" means:

(1) a Minnesota resident individually or as a member of a Minnesota limited liability company organized under chapter 322B or 322C and formed for the purpose of developing a C-BED project;

(2) a Minnesota nonprofit organization organized under chapter 317A;

(3) a Minnesota cooperative association organized under chapter 308A or 308B, including a rural electric cooperative association or a generation and transmission cooperative on behalf of and at the request of a member distribution utility;

(4) a Minnesota political subdivision or local government including, but not limited to, a municipal electric utility, or a municipal power agency on behalf of and at the request of a member distribution utility; the office of the commissioner of Iron Range resources and rehabilitation; a county, statutory or home rule charter city, town, school district, or public or private higher education institution; or any other local or regional governmental organization such as a board, commission, or association;

(5) a tribal council; or

(6) a legal entity (i) formed for a purpose other than to participate in C-BED projects; (ii) whose principal place of business or principal executive office is located in Minnesota; and (iii) that provides labor, services, equipment, components, or debt financing to a C-BED project.

A public utility, as defined in section 216B.02, subdivision 4, is not a qualifying beneficiary.

(d) "Qualifying revenue" includes, but is not limited to:

(1) royalties, distributions, dividends, and other payments flowing directly or indirectly to individuals who are qualifying beneficiaries;

(2) reasonable fees for consulting, development, professional, construction, and operations and maintenance services paid to qualifying beneficiaries;

(3) interest and fees paid to financial institutions that are qualifying beneficiaries;

(4) the value-added portion of payments for goods manufactured in Minnesota; and

(5) production taxes.

(e) "Discount rate" means the ten-year United States Treasury Yield as quoted in the Wall Street Journal as of the date of application for determination under subdivision 10, plus five percent; except that the

discount rate applicable to any qualifying revenues contingent upon an equity investor earning a specified internal rate of return is the ten-year United States Treasury Yield, plus eight percent.

(f) "Standard reliability criteria" means:

(1) can be safely integrated into and operated within the utility's grid without causing any adverse or unsafe consequences; and

(2) is consistent with the utility's resource needs as identified in its most recent resource plan submitted under section 216B.2422.

(g) "Renewable" refers to a technology listed in section 216B.1691, subdivision 1, paragraph (a).

(h) "Community-based energy development project" or "C-BED project" means a new renewable energy project that either as a stand-alone project or part of a partnership under subdivision 8:

(1) has no single qualifying beneficiary, including any parent company or subsidiary of the qualifying beneficiary, owning more than 15 percent of a C-BED wind energy project unless: (i) the C-BED wind energy project consists of only one or two turbines; or (ii) the qualifying beneficiary is a public entity listed under paragraph (c), clause (4);

(2) demonstrates that at least 51 percent of the net present value of the gross revenues from a power purchase agreement over the life of the project are qualifying revenues; and

(3) has a resolution of support adopted by the county board of each county in which the project is to be located, or in the case of a project located within the boundaries of a reservation, the tribal council for that reservation.

(i) "Value-added portion" means the difference between the total sales price and the total cost of components, materials, and services purchased from or provided outside of Minnesota.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 10. Minnesota Statutes 2015 Supplement, section 302A.471, subdivision 1, is amended to read:

Subdivision 1. **Actions creating rights.** A shareholder of a corporation may dissent from, and obtain payment for the fair value of the shareholder's shares in the event of, any of the following corporate actions:

(a) unless otherwise provided in the articles, an amendment of the articles that materially and adversely affects the rights or preferences of the shares of the dissenting shareholder in that it:

(1) alters or abolishes a preferential right of the shares;

(2) creates, alters, or abolishes a right in respect of the redemption of the shares, including a provision respecting a sinking fund for the redemption or repurchase of the shares;

(3) alters or abolishes a preemptive right of the holder of the shares to acquire shares, securities other than shares, or rights to purchase shares or securities other than shares;

(4) excludes or limits the right of a shareholder to vote on a matter, or to cumulate votes, except as the right may be excluded or limited through the authorization or issuance of securities of an existing or new

class or series with similar or different voting rights; except that an amendment to the articles of an issuing public corporation that provides that section 302A.671 does not apply to a control share acquisition does not give rise to the right to obtain payment under this section; or

(5) eliminates the right to obtain payment under this subdivision;

(b) a sale, lease, transfer, or other disposition of property and assets of the corporation that requires shareholder approval under section 302A.661, subdivision 2, but not including a disposition in dissolution described in section 302A.725, subdivision 2, or a disposition pursuant to an order of a court, or a disposition for cash on terms requiring that all or substantially all of the net proceeds of disposition be distributed to the shareholders in accordance with their respective interests within one year after the date of disposition;

(c) a plan of merger, whether under this chapter or under chapter 322B or 322C, to which the corporation is a constituent organization, except as provided in subdivision 3, and except for a plan of merger adopted under section 302A.626;

(d) a plan of exchange, whether under this chapter or under chapter 322B or 322C, to which the corporation is a party as the corporation whose shares will be acquired by the acquiring organization, except as provided in subdivision 3;

(e) a plan of conversion is adopted by the corporation and becomes effective;

(f) an amendment of the articles in connection with a combination of a class or series under section 302A.402 that reduces the number of shares of the class or series owned by the shareholder to a fraction of a share if the corporation exercises its right to repurchase the fractional share so created under section 302A.423; or

(g) any other corporate action taken pursuant to a shareholder vote with respect to which the articles, the bylaws, or a resolution approved by the board directs that dissenting shareholders may obtain payment for their shares.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 11. Minnesota Statutes 2014, section 302A.651, subdivision 4, is amended to read:

Subd. 4. **Foreign surviving organization.** If the surviving organization in a merger will be a foreign corporation or limited liability company and will transact business in this state, it shall comply with the provisions of chapter 303 with respect to foreign corporations or chapter 322B 322C with respect to foreign limited liability companies. In every case the surviving organization shall file with the secretary of state:

(a) an agreement that it may be served with process in this state in a proceeding for the enforcement of an obligation of a constituent organization and in a proceeding for the enforcement of the rights of a dissenting shareholder of a constituent corporation against the surviving organization;

(b) an irrevocable appointment of the secretary of state as its agent to accept service of process in any proceeding as provided in section 5.25, and an address to which process may be forwarded; and

(c) an agreement that it will promptly pay to the dissenting shareholders of each domestic constituent corporation the amount, if any, to which they are entitled under section 302A.473.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 12. Minnesota Statutes 2014, section 308B.005, subdivision 18, is amended to read:

Subd. 18. **Minnesota limited liability company.** "Minnesota limited liability company" means a limited liability company governed by chapter 322B or 322C.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 13. Minnesota Statutes 2014, section 319B.02, subdivision 10, is amended to read:

Subd. 10. **Minnesota firm.** "Minnesota firm" includes a corporation organized under chapter 302A or 317A, limited liability company organized under chapter 322B or 322C, and limited liability partnership that has an effective statement of qualification under section 323A.1001.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 14. Minnesota Statutes 2014, section 319B.02, subdivision 12, is amended to read:

Subd. 12. **Organizational document.** "Organizational document" means:

(1) with respect to a corporation organized under chapter 302A or 317A, that corporation's articles of incorporation;

(2) with respect to a limited liability company organized under chapter 322B or 322C, that limited liability company's articles of organization; and

(3) with respect to a limited liability partnership that has an effective statement of qualification under section 323A.1001, that statement of qualification.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 15. Minnesota Statutes 2015 Supplement, section 322C.0105, subdivision 1a, is amended to read:

Subd. 1a. **Loans, guarantees, and suretyship.** Without in any way limiting the generality of the power of a limited liability company to do all things necessary or convenient to carry on its activities as conferred in subdivision 1, a limited liability company may lend money to, guarantee an obligation of, become a surety for, or otherwise financially assist a person, if the transaction, or a class of transactions to which the transaction belongs, is approved pursuant to this chapter and the company's operating agreement and:

(1) is in the usual and regular course of business of the limited liability company;

(2) is with, or for the benefit of, a related organization, an organization in which the limited liability company has a financial interest, an organization with which the limited liability company has a business relationship, or an organization to which the limited liability company has the power to make donations, any of which relationships constitute consideration sufficient to make the loan, guarantee, suretyship, or other financial assistance so approved enforceable against the limited liability company;

(3) is with, or for the benefit of, a member who provides services to the limited liability company, or a manager or other employee of the limited liability company or a subsidiary, including a member, manager, or employee who is a governor of the limited liability company or a subsidiary, and may reasonably be expected, in the judgment of the board of governors, to benefit the limited liability company; or

(4) whether or not any separate consideration has been paid or promised to the limited liability company, has been approved by (i) the owners of two-thirds of the voting power of persons other than the interested person or persons, or (ii) the unanimous affirmative vote of all members, whether or not ordinarily entitled to vote.

Any such loan, ~~guaranty, surety contract~~ guarantee, suretyship, or other financial assistance may be with or without interest and may be unsecured or may be secured in any manner including, without limitation, a grant of a security interest in a member's transferable interest in the limited liability company. This subdivision does not grant any authority to act as a bank or to carry on the business of banking.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 16. Minnesota Statutes 2014, section 322C.0201, subdivision 4, is amended to read:

Subd. 4. **Formation.** (a) A limited liability company is formed when articles of organization have been filed with the secretary of state accompanied by a payment of \$135.

(b) Except in a proceeding by this state to dissolve a limited liability company, the filing of the articles of organization by the secretary of state is conclusive proof that the organizer satisfied all conditions to the formation of a limited liability company.

(c) The formation of a limited liability company does not by itself cause any person to become a member. However, this chapter does not preclude an agreement, made before or after formation of a limited liability company, which provides that one or more persons will become members, or acknowledging that one or more persons became members, upon or otherwise in connection with the formation of the limited liability company.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 17. Minnesota Statutes 2014, section 322C.0205, subdivision 1, is amended to read:

Subdivision 1. **Delivery requirements.** A record authorized or required to be filed with the secretary of state under this chapter must be captioned to describe the record's purpose, be in a medium permitted by the secretary of state, and be delivered to the secretary of state. If the filing fees have fee of \$35 or any filing fee specified in this chapter for the filing has been paid, unless the secretary of state determines that a record does not comply with the filing requirements of this chapter, the secretary of state shall file the record and:

(1) for a statement of denial under section 322C.0303, send an image of the filed statement and a receipt for the fees to the person on whose behalf the statement was delivered for filing and to the limited liability company; and

(2) for all other records, send an image of the filed record to the person on whose behalf the record was filed.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 18. Minnesota Statutes 2014, section 322C.0208, is amended to read:

322C.0208 ANNUAL REPORT FOR SECRETARY OF STATE.

(a) The secretary of state may send annually to each limited liability company, using the information provided by the limited liability company and foreign limited liability company pursuant to section 5.002 or 5.34 or the articles of organization, a notice announcing the need to file the annual renewal and informing the limited liability company that the annual renewal may be filed online and that paper filings may also be made, and informing the limited liability company that failing to file the annual renewal will result in an administrative termination of the limited liability company or the revocation of the authority of the limited liability company and foreign limited liability company to do business in Minnesota.

(b) Each calendar year beginning in the calendar year following the calendar year in which a limited liability company and foreign limited liability company files articles of organization, a limited liability company and foreign limited liability company must file with the secretary of state by December 31 of each calendar year a renewal containing the items required by section 5.34. Notwithstanding section 322C.0205, subdivision 1, no fee is required to file an annual renewal.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 19. Minnesota Statutes 2015 Supplement, section 322C.0407, subdivision 4, is amended to read:

Subd. 4. **Board-managed company rules.** In a board-managed limited liability company, the following rules apply:

(1) The activities and affairs of a limited liability company are to be managed by and under the direction of a board of governors, which shall consist of one or more governors as determined by members holding a majority of the voting power of the members. Except as specifically stated in this subdivision and section 322C.0202, subdivision 5, subject to section 322C.0302:

(i) the board acts only through an act of the board;

(ii) no individual governor has any right or power to act for the limited liability company; and

(iii) only officers, managers, or other agents designated by the board or through a process approved by the board have the right to act for the limited liability company, and that right extends only to the extent consistent with the terms of the designation.

(2) A governor must be a natural person. A person need not be a member to be a governor, but the dissociation of a member who is also a governor disqualifies the person as a governor. If a person who is both a governor and a member ceases to be a governor, that cessation does not by itself dissociate the person as a member. A person's ceasing to be a governor does not discharge any debt, obligation, or other liability to the limited liability company or members which the person incurred while a governor.

(3) The method of election and any additional qualifications for governors will be as determined by members holding a majority of the voting power of the members. Governors are elected by a plurality of the voting power present and entitled to vote on the election of governors at a duly called or held meeting at which a quorum is present.

(4) A member may waive notice of a meeting for the election of governors. A member's waiver of notice under this clause is effective whether given before, at, or after the meeting, and whether given in a record, orally, or by attendance. Attendance by a member at a meeting for election of governors is a waiver of notice of that meeting, except where the member objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate in the meeting after the objection.

(5) Once elected, a governor holds office for the term for which the governor was elected and until a successor is elected, or until the earlier death, resignation, disqualification, or removal of the governor. A governor may resign at any time. A governor may be removed at any time, without cause and without advance notice, by a majority of the voting power of all of the members. The existence of vacancies does not affect the power of the board to function if at least one governor remains in office.

(6) When a vacancy occurs, the limited liability company shall immediately notify all members in a record of the vacancy, stating the cause of the vacancy and the date the notice is sent. Within 30 days of that date, the members may fill the vacancy in the same method the members may elect governors under clause (3). If the vacancy is not filled by the members under this clause, the vacancy may be filled by the affirmative vote of a majority of the remaining governors, even though less than a quorum.

(7) The board shall meet from time to time as determined by members holding a majority of the voting power of the members, at a place decided by the board. If the day or date, time, and place of a board of governors meeting have been provided in a board resolution, or announced at a previous meeting of the board of governors, no notice is required. Notice of an adjourned meeting need not be given other than by announcement at the meeting at which adjournment is taken. If notice is required for a meeting, notice shall be made in the manner stated in clause (8).

(8) A governor may call a board meeting by giving at least ten days' notice in a record to all governors of the date, time, and place of the meeting. The notice need not state the purpose of the meeting. As to each governor, the notice is effective when given.

(i) Notice may be:

(A) mailed to the governor at an address designated by the person or at the last known address of the person;

(B) deposited with a nationally recognized overnight delivery service for overnight delivery or, if overnight delivery to the governor is not available, for delivery as promptly as practicable to the governor at an address designated by the governor or at the last known address of the governor;

(C) communicated to the governor orally;

(D) handed to the governor;

(E) given by facsimile communication, electronic mail, or any other form of electronic communication, if the governor has consented in a record to receive notice by such means; or

(F) by any other means determined by members holding a majority of the voting power of the members.

(ii) The notice is deemed given if by:

(A) mail, when deposited in the United States mail with sufficient postage affixed;

(B) deposit for delivery, when deposited for delivery as provided in item (i), subitem (B), with delivery charges prepaid or otherwise provided for by the sender;

(C) facsimile communication, when directed to a telephone number at which the governor has consented in a record to receive notice;

(D) electronic mail, when directed to an electronic mail address at which the governor has consented in a record to receive notice; and

(E) any other form of electronic communication by which the governor has consented in a record to receive notice, when directed to the governor.

(9) A governor may waive notice of a meeting of the board of governors. A waiver of notice by a governor entitled to notice is effective whether given before, at, or after the meeting, and whether given in a record, orally, or by attendance. Attendance by a governor at a meeting is a waiver of notice of that meeting, except where the governor objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate in the meeting after the objection.

(10) A majority of the governors currently holding office is a quorum for the transaction of business. When a quorum is present at a duly called or held meeting of the board, the vote of a majority of the directors present constitutes an act of the board. If a quorum is present when a duly called or held meeting is convened, the governors present may continue to transact business until adjournment, even though the withdrawal of a number of governors originally present leaves less than the proportion or number otherwise required for a quorum.

(11) Any meeting among governors may be conducted solely by one or more means of remote communication through which all of the governors may participate with each other during the meeting, if the number of governors participating in the meeting would be sufficient to constitute a quorum. Participation in a meeting by that means constitutes presence in person at the meeting.

(12) A governor may participate in a board of governors meeting by means of remote communication, through which the governor, other governors so participating, and all governors physically present at the meeting may participate with each other during the meeting. Participation in a meeting by that means constitutes presence in person at the meeting.

(13) An action required or permitted to be taken at a board meeting may be taken by written action signed by the number of governors that would be required to take the same action at a meeting of the board of governors at which all governors were present. The written action is effective when signed by the required number of governors, unless a different effective time is provided in the written action. When written action is permitted to be taken by less than all governors, all governors must be notified immediately of its text and effective date. Failure to provide the notice does not invalidate the written action. A governor who does not sign or consent to the written action has no liability for the action or actions taken by the written action.

(14) If the board designates a person as "chief manager," "president," "chief executive officer," "CEO," or another title of similar import, that person shall:

(i) serve as an agent of the limited liability company at the will of the board, without prejudice to any rights the person may have under a contract with the limited liability company;

(ii) have general active management of the business of the limited liability company, subject to the supervision and control of the board;

(iii) see that all orders and resolutions of the board of governors are carried into effect;

(iv) sign and deliver in the name of the limited liability company any deeds, mortgages, bonds, contracts, or other instruments pertaining to the business of the limited liability company, except in cases in which the

authority to sign and deliver is required by law to be exercised by another person or is expressly delegated by the board of governors to some other officer or agent of the limited liability company;

(v) maintain records of and, whenever necessary, certify all proceedings of the board of governors and the members; and

(vi) perform other duties prescribed by the board of governors.

(15) If the board designates a person as "treasurer," "chief financial officer," "CFO," or another title of similar import, that person shall:

(i) serve as an agent of the limited liability company at the will of the board, without prejudice to any rights the person may have under a contract with the limited liability company;

(ii) keep accurate financial records for the limited liability company;

(iii) deposit all money, drafts, and checks in the name of and to the credit of the limited liability company in the banks and depositories designated by the board of governors;

(iv) endorse for deposit all notes, checks, and drafts received by the limited liability company as ordered by the board of governors, making proper vouchers for them;

(v) disburse limited liability company funds and issue checks and drafts in the name of the limited liability company, as ordered by the board of governors;

(vi) give to the chief executive officer and the board of governors, whenever requested, an account of all transactions by the chief financial officer and of the financial condition of the limited liability company; and

(vii) perform other duties prescribed by the board of governors or by the chief executive officer.

(16) The consent of all members is required to:

(i) sell, lease, exchange, or otherwise dispose of all, or substantially all, of the company's property, with or without the good will, outside the ordinary course of the company's activities, provided that member consent is not required for:

(A) the grant of a security interest in all or substantially all of the company's property and assets, whether or not in the usual and regular course of its business; or

(B) transfer of any or all of the company's property to an organization all the ownership interests of which are owned directly or indirectly through wholly owned organizations, by the company;

(ii) approve a merger, conversion, or domestication under sections 322C.1001 to 322C.1015; and

(iii) amend the operating agreement.

(17) Subject to section 322C.1204, subdivision 3, for purposes of this subdivision, each member possesses voting power in proportion to the member's interest in distributions of the limited liability company prior to dissolution and a majority of the voting power of the members is a quorum at a meeting of the members.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 20. Minnesota Statutes 2015 Supplement, section 322C.1007, subdivision 1, is amended to read:

Subdivision 1. **Conversion requirements.** Pursuant to this section, sections 322C.1008 to 322C.1010, and a plan of conversion, an organization other than a limited liability company, a foreign limited liability company, a nonprofit corporation, or an organization owning assets irrevocably dedicated to a charitable purpose, may convert to a limited liability company other than a nonprofit limited liability company, and a limited liability company other than a nonprofit limited liability company may convert to an organization other than a foreign limited liability company, or a corporation governed by chapter 304A, if:

- (1) the other organization's governing statute authorizes the conversion;
- (2) the conversion is not prohibited by other law of this state or the law of the jurisdiction that enacted the other organization's governing statute; and
- (3) the other organization complies with its governing statute in effecting the conversion.

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

Sec. 21. Minnesota Statutes 2014, section 322C.1011, subdivision 1, is amended to read:

Subdivision 1. **Foreign limited liability company.** A foreign limited liability company may become a limited liability company pursuant to this section, sections 322C.1011 to 322C.1013, and a plan of domestication if:

- (1) the foreign limited liability company's governing statute authorizes the domestication, whether described by the laws of the foreign jurisdiction as a domestication, a conversion, or otherwise;
- (2) the domestication is not prohibited by the law of the jurisdiction that enacted the governing statute; and
- (3) the foreign limited liability company complies with its governing statute in effecting the domestication.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Sec. 22. Minnesota Statutes 2014, section 322C.1011, subdivision 2, is amended to read:

Subd. 2. **Domestic limited liability company.** A limited liability company may become a foreign limited liability company pursuant to this section, sections 322C.1011 to 322C.1013, and a plan of domestication if:

- (1) the foreign limited liability company's governing statute authorizes the domestication, whether described by the laws of the foreign jurisdiction as a domestication, a conversion, or otherwise;
- (2) the domestication is not prohibited by the law of the jurisdiction that enacted the governing statute; and
- (3) the foreign limited liability company complies with its governing statute in effecting the domestication.

EFFECTIVE DATE. This section is effective retroactively from August 1, 2015.

Presented to the governor May 19, 2016