## CHAPTER 2--S.F.No. 202

*An act relating to real property; providing for partition of real property; modifying certain notice requirements for eminent domain proceedings; clarifying certain application of a legislative enactment relating to transfer on death deeds; amending Minnesota Statutes 2024, sections 117.115, subdivision 2; 117.145; Laws 2024, chapter 91, section 3; proposing coding for new law in Minnesota Statutes, chapter 558; proposing coding for new law as Minnesota Statutes, chapter 558A.*

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

## ARTICLE 1

## PARTITION OF REAL PROPERTY

Section 1. **[558.001] APPLICABILITY.**

This chapter applies to all partition actions commenced before August 1, 2025.

## ARTICLE 2

## MINNESOTA PARTITION ACT

Section 1. **[558A.01] SHORT TITLE.**

Sections 558A.01 to 558A.29 may be cited as the "Minnesota Partition Act."

Sec. 2. **[558A.02] APPLICABILITY.**

This chapter, and not chapter 558, applies to all partition actions commenced on or after August 1, 2025.

Sec. 3. **[558A.03] PARTITION; SALE; WHO MAY BRING ACTION.**

Subdivision 1. **Concurrent interest.** When two or more joint tenants or tenants-in-common have concurrent interests in a fee simple, a life estate, or a leasehold estate in real property, one or more of them may bring an action against the others holding the same interests for a partition of the concurrent interests. The action may seek a sale of all, or part of the interest being partitioned and division of the proceeds according to the rights and interests of the interested parties, a partition in kind, or any other fair and equitable remedy.

Subd. 2. **Remainder interest.** The holder of a remainder interest may bring an action for partition in kind or by sale or for other relief against the life tenant or life tenants under this chapter only to prevent waste of the remainder interest. The court may use its general and equitable powers to order relief to prevent waste and achieve a result that is fair and equitable to the parties.

Sec. 4. **[558A.04] DISTRICT COURT POWERS AND AUTHORITY.**

The court may exercise its general equitable powers to achieve a result that is fair and equitable to the parties.

Sec. 5. **[558A.05] LIENS.**

Upon request of the parties the court has the authority to shift property interest or liens from one property or part of a property to another property as part of the partition. In that case, the lien holder shall be made a party to the action. This provision does not apply to mortgage liens.

Sec. 6. **[558A.06] SUMMONS; SERVICE.**

Subdivision 1. **Form of summons.** The summons shall be addressed by name to all the owners and lienholders who are known, and may also be addressed to all other persons unknown having or claiming an interest in the property described in the complaint herein. The summons may be served, at any time after filing the complaint with the district court, in the same manner as a summons in a civil action. The plaintiff or any party may record with the county recorder or registrar of titles as appropriate a notice lis pendens of the action.

Subd. 2. **Notice by posting.** If service of the summons and complaint is by publication, not later than ten days after the date of the first publication, the plaintiff shall post a conspicuous sign on the property that is the subject of the action. The sign must state that the action has commenced and identify the name and address of the court and the common designation by which the property is known. The court may require the plaintiff to publish on the sign the name of the plaintiff and the known defendants.

Sec. 7. **[558A.07] COMPLAINT.**

The complaint shall particularly set forth the interests of all persons in the property, whether by way of ownership or lien, so far as known to the plaintiff; and if any such person, or the person's share or interest, is unknown to the plaintiff, or is uncertain or contingent, or the ownership of the inheritance depends upon an executory devise, or there is a contingent remainder, so that such person cannot be named, that fact shall be set forth.

Sec. 8. **[558A.08] JUDGMENT FOR PARTITION; REFEREES.**

Except as provided in section 558A.09, the title to the property and the rights of the parties shall be established by evidence or by the written stipulation of the parties to be affected thereby; and thereupon, in a proper case, the court shall render judgment that partition be made accordingly, and may appoint at least one, but no more than three disinterested and judicious persons as referees to sell the property, or a part thereof, or make partition and set off the shares of the several persons interested as determined by the judgment. Each referee must be disinterested and impartial and not a party to or a participant in the action.

Sec. 9. **[558A.09] DISPUTE BETWEEN PARTIES IS NO DEFENSE.**

If the title of the plaintiff to a certain undivided share of the property is proved or admitted, it shall not be a defense that there is a dispute or litigation undetermined between some of the parties as to the right or title of such parties in or to any undivided shares of the property claimed by them; but in such case the court shall render judgment the property be sold as in other cases, or that partition be made and shall cause the portion of the property or of the proceeds thereof pertaining to such undivided shares in dispute to be allotted

to the parties according to their interest in the property. In case of sale, the court may order the proceeds pertaining to such shares to be paid into court to be apportioned according to each party's interest in the property.

Sec. 10. **[558A.10] DUTY AND POWERS OF REFEREE; REPORT; EXPENSES.**

When a partition is ordered, the referee or referees shall sell the property by any means to assure the highest and best price, under the most favorable terms. If the court orders partition in kind, the referee or referees shall divide the property, and allot the several portions thereof to the respective parties, quantity and quality relatively considered, according to their respective rights, designating the several portions by proper landmarks, and may employ a surveyor, with necessary assistants, to aid them therein. The referee may also engage appraisers, real estate brokers or agents, legal counsel, cleaning services, contractors, and other professionals that in the referee's opinion are reasonably necessary to assist in the partition in kind. The referee or referees shall make a report of the proceedings, specifying the manner of executing the documents for conveyance, and describing the property and in the case of a partition in kind the share allotted to each party, with a particular description thereof. The expenses and fees of the referee or referees, including those of a surveyor and other professionals engaged by the referee, shall be paid by the parties in proportion to the parties' interests, unless directed otherwise by the court.

Sec. 11. **[558A.11] CONSIDERATIONS FOR PARTITION IN KIND.**

(a) In determining whether partition in kind would result in manifest prejudice to the cotenants as a group, the court shall consider the following:

(1) whether the property practicably can be divided among the cotenants;

(2) whether partition in kind would apportion the property in such a way that the aggregate fair market value of the parcels resulting from the division would be materially less than the value of the property if it were sold as a whole, taking into account the condition under which a court-ordered sale likely would occur;

(3) evidence of the collective duration of ownership or possession of the property by a cotenant and one or more predecessors in title or predecessors in possession to the cotenant who are or were relatives of the cotenant or each other;

(4) a cotenant's sentimental attachment to the property, including any attachment arising because the property has ancestral or other unique or special value to the cotenant;

(5) the lawful use being made of the property by a cotenant and the degree to which the cotenant would be harmed if the cotenant could not continue the same use of the property;

(6) the degree to which the cotenants have contributed their pro rata share of the property taxes, insurance, and other expenses associated with maintaining ownership of the property or have contributed to the physical improvement, maintenance, or upkeep of the property; and

(7) any other relevant factor.

(b) The court may not consider any one factor in paragraph (a) to be dispositive without weighing the totality of all relevant factors and circumstances.

Sec. 12. **[558A.12] REPORT OF OPEN-MARKET SALE.**

The referee or referees shall file a report with the court containing the following information:

(1) a description of the property to be sold to each buyer;

(2) the name of each buyer;

(3) the proposed purchase price;

(4) the terms and conditions of the proposed sale, including the terms of any owner financing;

(5) the amounts to be paid to lienholders;

(6) a statement of contractual or other arrangements or conditions of the broker's commission; and

(7) other material facts relevant to the sale.

Sec. 13. **[558A.13] REFEREE'S REPORT AS EVIDENCE.**

The court shall accept the referee's report unless the party seeking to set aside or modify the report can demonstrate that the report is clearly and palpably against the evidence, by a preponderance of the evidence that clearly suggests a mistake, improper motive, bias, or caprice in making the report.

Sec. 14. **[558A.14] SALE AUTHORIZATION.**

The sale may be in a manner recommended by the referee or referees' report, if any, and approved by the court to be commercially reasonable to bring about the highest and best price, at the best terms. The sale and terms shall be approved by the court prior to the sale. If the court determines that the parties will not cooperate in a sale or division of the property, the court shall empower the referee with all authority to execute all documents to conclude the sale or partition in kind. The court may confirm the sale after notice to all affected parties.

Sec. 15. **[558A.15] PURCHASE BY PART OWNER.**

When a party entitled to a share in the property, or an encumbrancer entitled to have a lien paid out of the proceeds of the same, becomes a purchaser, the referee may take the receipt for so much of the proceeds of the sale as belong to the entitled party or encumbrancer.

Sec. 16. **[558A.16] REPORT OF SALE.**

The referee or referees shall report the sale to the court, describing the different parcels sold to each purchaser, and specifying the name of the purchaser, the price paid or secured, and the terms and conditions of the sale, which report shall be filed with the court administrator. The court may confirm or reject the sale under section 558A.13 after notice to all interested persons and a hearing. If rejected the court shall state its reason for rejection.

Sec. 17. **[558A.17] CONFIRMATION OF REPORT; FINAL JUDGMENT.**

The court may confirm or set aside the referee or referees' report under section 558A.13, and, if necessary, appoint a new referee or referees. Upon the report being confirmed, final judgment shall be rendered that such partition be effectual forever, and such judgment shall be binding:

(1) on all the parties named therein, and their legal representatives, who had at the time any interest in the property divided, as owners in fee or as tenants for years, or as entitled to the remainder, reversion, or inheritance thereof, after the determination of a particular estate therein, or who by any contingency may

be entitled to a beneficial interest therein, or who have an interest in an undivided share thereof as tenants for years or for life;

(2) on all persons interested in the property who may be unknown, and to whom notice has been given according to law; and

(3) on all persons claiming from such parties or persons, or either of them.

Sec. 18. **[558A.18] LIENS; HOW AFFECTED.**

When there is a lien on an undivided interest or estate of any of the parties, if partition in kind is made such lien is thenceforth a charge only on the share allotted to such party or parties. The lien shall be paid from the proceeds of the sale, or as a judgment against the party awarded the property, as the court deems fair and equitable to the parties. This provision does not affect the priority of any lien or the lienholder's rights to enforce any lien.

Sec. 19. **[558A.19] ATTORNEY FEES AND COSTS APPORTIONED.**

The attorney fees, costs, charges, and disbursements of sale or in kind partition may be paid from the sale proceeds in the case of a sale, or against a party or parties respectively entitled to share in the land, and in the case of an in kind partition, the amounts to be paid by each shall be determined by the court, and specified in the final judgment. In making the award the court may consider the actions of the parties necessitating the partition, the conduct and cooperation of the parties to the partition and the benefits of the partition confirmed upon the parties. The judgment may be docketed, and payment of such the amounts may be enforced by execution against the property of the respective judgment debtors, even if the property is a homestead, as in the case of other judgments for money.

Sec. 20. **[558A.20] COMPENSATION BECAUSE OF INEQUALITY.**

When it appears that partition in kind cannot be made equal between the parties without prejudice to the rights or interests of some, the court may adjudge compensation to be made by one to another for equality of partition.

Sec. 21. **[558A.21] INDIVISIBLE PROPERTY MAY BE SET OFF.**

When the premises consist of property which cannot be divided without damage to the owners, or when any specified part is of greater value than either party's share and cannot be divided without damage to the owners, the whole premises or the part so incapable of division may be set off to any party who will accept it, that party paying to one or more of the others such sums of money as the referee or referees' awards to make the partition just and equal.

Sec. 22. **[558A.22] PROCEEDS; HOW APPLIED.**

The proceeds of the sale of the property shall be applied under the direction of the court as follows:

(1) to pay its just proportion of the general costs of the action;

(2) to pay the costs of the referee;

(3) to pay all legal fees and costs awarded under section 558A.19;

(4) to satisfy and cancel of record, pursuant to section 558A.18, the several liens, if any, in their order of priority, by payment of the sums due and to become due; the amount remaining due as proven to the court;

(5) the residue among the owners of the property sold, according to their respective shares.

Sec. 23. **[558A.23] ORDER CONFIRMING SALE.**

The order confirming the sale of the property, together with the deed executed by the referee or referees, shall be accepted for recording and act as a valid, final, and conclusive transfer of all interests under sections 558A.24 and 558A.27 as stated in the order. The registrar of titles may require certification of the award and transfer by the examiner of titles for lands registered under chapter 508 or 508A.

Sec. 24. **[558A.24] RECORD AND EFFECT OF CONVEYANCES.**

The conveyances executed by the referee or referees shall be recorded and shall be binding on all parties to the action, including all persons having liens, specific or general, against the property, and all persons unknown, interested in the property, to whom notice has been given by publication of the summons, and all persons claiming under them or any of them.

Sec. 25. **[558A.25] PERSONS PROHIBITED FROM PURCHASING.**

Subdivision 1. **Referee may not purchase property.** No referee, nor any person for the benefit of any referee, shall be interested, directly or indirectly, in any purchase of the premises sold.

Subd. 2. **Other compensation.** This provision is not intended to prevent anyone from receiving compensation under chapter 82, and also payment for services as a referee appointed under this chapter, if the court determines that the referee services are beyond the usual broker services in connection with the sale of the property.

Sec. 26. **[558A.26] CLAIMS TO PROCEEDS; HOW DETERMINED.**

When the proceeds of sale of any shares belonging to parties to the action who are known are paid into court the action may be continued as between them for the determination of their respective claims thereto. Further testimony may be taken in court or by any or all referees, at the discretion of the court, which may, if necessary, require the parties to present the facts in controversy by pleadings, as in an original action. The proceedings authorized by this section shall not delay or affect any party whose rights are not involved therein. The court may award attorney fees, costs and other expenses from the sale proceeds as provided in section 558A.10.

Sec. 27. **[558A.27] ORDERS; INTERLOCUTORY JUDGMENTS; APPEALS.**

Any party to any partition proceedings may appeal from any order or interlocutory judgment made and entered pursuant to section 558A.08, 558A.14, 558A.16, or 558A.17, to the court of appeals within 30 days after the making and filing of the order or interlocutory judgment. Any appeal shall be taken as in other civil cases.

All matters determined by any order or interlocutory judgment shall be conclusive and binding upon all parties to the proceedings and shall never be subject to review by the court unless appealed from as provided herein.

Sec. 28. **[558A.28] PROCEEDS DUE UNKNOWN OWNER.**

Proceeds of sale belonging to an unknown owner shall be paid to the court administrator subject to further orders of the court.

Sec. 29. **[558A.29] GUARDIAN AD LITEM; WHEN APPOINTED.**

Upon the petition of any party, or of any person interested in the proceeding, or on its own initiative, the court shall appoint a disinterested person to act as guardian ad litem for minors, and other persons under disability, and for all persons not in being who may appear to have any interest or lien upon the land. The compensation of the guardian shall be determined by the court and paid from the person's share of the proceeds as part of the expenses of the proceeding.

Sec. 30. **EFFECTIVE DATE.**

This article is effective on August 1, 2025, and applies to all partition actions commenced on or after August 1, 2025.

## ARTICLE 3

## EMINENT DOMAIN

Section 1. Minnesota Statutes 2024, section 117.115, subdivision 2, is amended to read:

Subd. 2. **Notification.** Within ten days after the date of the filing of the report of commissioners, the petitioner shall notify the following listed persons, by mail, of the filing of the report of commissioners setting forth the date of filing of the report, the amount of the award, and all the terms and conditions thereof as the same pertain to the respondent or party listed:

(1) each respondent listed in the petition as having an interest in any parcel described in the report;

(2) each other party to the proceeding whose appearance has been noted by the court in its order approving the petition under section 117.075 as having an interest in any parcel described in the report; and

(3) each ~~respondent's~~ attorney appearing on behalf of each respondent or other party having an interest in any parcel described in the report.

Such notification shall be addressed to the last known post office address of each person notified. Notice of the filing of the report need not be given to parties initially served by publication under section 117.055. The petitioner shall file with the court administrator an affidavit of mailing of the notice, setting forth the names and addresses of all the persons so notified.

Sec. 2. Minnesota Statutes 2024, section 117.145, is amended to read:

**117.145 APPEAL: DEADLINE, NOTICE, SERVICE, CONTENTS; BY OTHER PARTIES.**

At any time within 40 days from the date that the report has been filed, any party to the proceedings may appeal to the district court from any award of damages embraced in the report, or from any omission to award damages, by: (1) filing with the court administrator a notice of such appeal, and (2) serving by mail or E-Service a copy of such notice on all ~~respondents and all other parties to the proceedings having an interest in any parcel described in the appeal~~ persons who are shown in the petitioner's affidavit of mailing,

required by section 117.115, subdivision 2, as having been mailed a notice of the report of the commissioners, and on the petitioner.

If any notice of appeal is filed, any other party may appeal within 50 days from the date that the report was filed by: (1) filing with the court administrator a notice of the appeal; and (2) serving the notice of appeal by mail or E-Service, as provided in this section. Service by mail is deemed effective upon deposit of the notice in the United States mail, by first class mail, with postage prepaid, and addressed to each person served at the address shown in the petitioner's affidavit of mailing required by section 117.115, subdivision 2, or their last known address. Proof of service by mail of a notice of appeal shall be filed with the court administrator promptly following the mailing of any notice of appeal. The notice of appeal shall specify the particular award or failure to award appealed from, the nature and amount of the claim, the land to which it relates, and grounds of the appeal, and if applicable, the notice required in section 117.086.

## ARTICLE 4

## TRANSFER ON DEATH DEEDS

Section 1. Laws 2024, chapter 91, section 3, is amended to read:

Sec. 3. **EFFECTIVE DATE.**

Section 1, except subdivision 2, is effective the day following final enactment and applies to transfer on death deeds that become effective on or after that date. Sections 1, subdivision 2, and 2, are effective on the day following final enactment and apply to insurance policies issued or renewed in Minnesota on or after August 1 of the year of final enactment. Sections 1, subdivision 2, and 2, do not apply to insurance policies issued or renewed prior to August 1 of the year of final enactment or to transfer on death deeds recorded prior to that date unless the grantor owner provides the notice specified by section 2, subdivision 3.

**EFFECTIVE DATE.** This section is effective retroactively from April 27, 2024.

Presented to the governor March 28, 2025

Signed by the governor March 28, 2025, 1:20 p.m.