

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE **S.F. No. 137**

(SENATE AUTHORS: SCHEID, Rest and Newman)

DATE	D-PG	OFFICIAL STATUS
01/27/2011	118	Introduction and first reading Referred to Judiciary and Public Safety
01/31/2011	133	Author added Rest
02/21/2011	269	Comm report: To pass
	270	Second reading
03/17/2011	551	General Orders: To pass
03/24/2011	704	Calendar: Third reading Passed
05/10/2011	1921	Author added Newman
05/21/2011	3037	Returned from House with amendment
	3037	Senate concurred and repassed bill
	3037	Third reading
		Presentment date 05/23/11
	3580	Governor's action Approval 05/24/11
	3580	Secretary of State Chapter 66 05/24/11
		Effective date Sec. 1-6 08/01/11; Sec. 7-8 05/25/11

A bill for an act

relating to real property; clarifying deeds to correct title and certain acknowledgments; clarifying certain powers of court with respect to a probate provision; providing for cancellation of residential purchase agreements; clarifying redemption period for foreclosure of certain mortgages; clarifying an effective date for certain child support judgments; amending Minnesota Statutes 2010, sections 272.15; 358.50; 524.2-712; 559.217, subdivisions 3, 4, 8; 580.23, subdivision 2; Laws 2010, chapter 238, section 7, as amended.

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

Section 1. Minnesota Statutes 2010, section 272.15, is amended to read:

272.15 DEED TO CORRECT TITLE.

When a deed purporting to ~~convey or quitclaim any parcel of land, the record title to which appears to be in two or more persons,~~ be a corrective deed is presented to the county attorney, accompanied by an abstract of title to ~~such~~ the land described in the deed, or other evidence deemed satisfactory by the county attorney, the attorney shall examine such deed ~~and~~ abstract, or other evidence presented, upon tender of a fee of \$5 therefor. On finding that such deed is given for the purpose of correcting a defect in the title, or on account of a technical error in a prior conveyance, the attorney shall so certify upon the deed; and thereupon the county recorder shall record it, if otherwise entitled to record, notwithstanding that there are unpaid taxes or assessments upon such land.

Sec. 2. Minnesota Statutes 2010, section 358.50, is amended to read:

358.50 EFFECT OF ACKNOWLEDGMENT.

An acknowledgment made in a representative capacity ~~for and on behalf of a corporation, partnership, limited liability company, trust, or other entity~~ as defined in

2.1 section 358.41, clause (4), and certified substantially in the form prescribed in this chapter
2.2 is prima facie evidence that the instrument or electronic record was executed and delivered
2.3 with proper authority and as the act of the person or entity represented and identified in the
2.4 instrument or electronic record.

2.5 Sec. 3. Minnesota Statutes 2010, section 524.2-712, is amended to read:

2.6 **524.2-712 DECEDENTS DYING AFTER DECEMBER 31, 2009, AND**
2.7 **BEFORE JANUARY 1, 2011; FORMULA CLAUSES TO BE CONSTRUED TO**
2.8 **REFER TO FEDERAL ESTATE TAX AND FEDERAL GENERATION-SKIPPING**
2.9 **TRANSFER TAX LAWS.**

2.10 (a) A governing instrument, including a will or trust agreement, of a decedent who
2.11 dies after December 31, 2009, and before January 1, 2011, that contains a formula or
2.12 provision referring to the "unified credit," "estate tax exemption," "applicable exemption
2.13 amount," "applicable credit amount," "applicable exclusion amount," "generation-skipping
2.14 transfer tax exemption," "GST exemption," "marital deduction," "maximum marital
2.15 deduction," "unlimited marital deduction," "inclusion ratio," "applicable fraction," or
2.16 any section of the Internal Revenue Code relating to the federal estate tax or federal
2.17 generation-skipping transfer tax, or that measures a share of an estate or trust by reference
2.18 to federal estate taxes or federal generation-skipping transfer taxes, is deemed to refer to
2.19 the federal estate tax and federal generation-skipping transfer tax laws as they applied with
2.20 respect to the estates of decedents dying on December 31, 2009. This paragraph does not
2.21 apply to a governing instrument, including a will or trust agreement, that manifests an
2.22 intent that a contrary rule will apply if the decedent dies on a date on which there is no
2.23 then-applicable federal estate or federal generation-skipping transfer tax.

2.24 ~~(b) If the federal estate or federal generation-skipping transfer tax becomes effective~~
2.25 ~~before January 1, 2011, then the reference to January 1, 2011, in paragraph (a) is deemed~~
2.26 ~~to refer to the first date on which this tax becomes legally effective, instead of January 1,~~
2.27 ~~2011.~~

2.28 ~~(c)~~ (b) The personal representative, trustee, or any interested person under the
2.29 governing instrument, including a will or trust agreement, may bring a proceeding
2.30 to determine whether the decedent intended that a formula or provision described in
2.31 paragraph (a) be construed with respect to the law as it existed after December 31, 2009.
2.32 This proceeding must be commenced by December 31, 2011, and the court may consider
2.33 extrinsic evidence that contradicts the plain meaning of the will, trust, or other governing
2.34 instrument. The court may modify a provision of a will, trust, or other governing
2.35 instrument that refers to the federal estate tax or generation-skipping transfer tax laws as

S.F. No. 137, 1st Engrossment - 87th Legislative Session (2011-2012) [S0137-1]

3.1 described in paragraph (a) to conform the terms to the decedent's intention, or achieve
3.2 the decedent's tax objectives in a manner that is not contrary to the decedent's probable
3.3 intention. The court may provide that its decision, including any decision to modify
3.4 a provision of a will, trust, or other governing instrument, is effective as of the date of
3.5 the decedent's death.

3.6 Sec. 4. Minnesota Statutes 2010, section 559.217, subdivision 3, is amended to read:

3.7 Subd. 3. **Cancellation with right to cure.** (a) If a default occurs or an unfulfilled
3.8 condition exists after the date specified for fulfillment in the terms of a purchase agreement
3.9 for the conveyance of residential real property, which does not by its terms cancel the
3.10 purchase agreement, the purchaser or the seller may initiate a cancellation by serving
3.11 upon the other party to the purchase agreement and any third party that is holding earnest
3.12 money under the purchase agreement a notice:

3.13 (1) specifying the residential real property that is the subject of the purchase
3.14 agreement, including the legal description;

3.15 (2) specifying the purchase agreement by date and names of parties, and the
3.16 unfulfilled condition or default; and

3.17 (3) stating that the purchase agreement will be canceled 15 days after service of the
3.18 notice upon the other party to the purchase agreement unless prior to the cancellation date
3.19 the party upon whom the notice is served complies with the conditions in default and
3.20 completes the unfulfilled conditions, including, if applicable, completion of the purchase
3.21 or sale of the residential real property according to the terms of the purchase agreement.

3.22 (b) The notice to initiate a cancellation under this subdivision must be served in the
3.23 manner provided in section 559.21, subdivision 4, paragraphs (a) and (b). The notice
3.24 required by this subdivision must be given notwithstanding any provisions in the purchase
3.25 agreement to the contrary.

3.26 (c) The purchase agreement is canceled unless, within 15 days after the service of
3.27 the notice upon the other party to the purchase agreement, the party upon whom the notice
3.28 was served fully complies with the conditions in default and completes the unfulfilled
3.29 conditions or secures from a court an order suspending the cancellation.

3.30 Sec. 5. Minnesota Statutes 2010, section 559.217, subdivision 4, is amended to read:

3.31 Subd. 4. **Declaratory cancellation.** (a) If an unfulfilled condition exists after the
3.32 date specified for fulfillment in the terms of a purchase agreement for the conveyance
3.33 of residential real property, which by the terms of the purchase agreement cancels the
3.34 purchase agreement, either the purchaser or the seller may confirm the cancellation by

S.F. No. 137, 1st Engrossment - 87th Legislative Session (2011-2012) [S0137-1]

4.1 serving upon the other party to the purchase agreement and any third party that is holding
4.2 earnest money under the purchase agreement a notice:

4.3 (1) specifying the residential real property that is the subject of the purchase
4.4 agreement, including the legal description;

4.5 (2) specifying the purchase agreement by date and names of parties, and the
4.6 unfulfilled condition; and

4.7 (3) stating that the purchase agreement has been canceled.

4.8 (b) The notice to initiate a cancellation under this subdivision must be served in the
4.9 manner provided in section 559.21, subdivision 4, paragraphs (a) and (b). The notice
4.10 required by this subdivision may be given notwithstanding any provisions in the purchase
4.11 agreement to the contrary.

4.12 (c) The cancellation of the purchase agreement is complete, unless, within 15
4.13 days after the service of the notice upon the other party to the purchase agreement, the
4.14 party upon whom the notice was served secures from a court an order suspending the
4.15 cancellation.

4.16 Sec. 6. Minnesota Statutes 2010, section 559.217, subdivision 8, is amended to read:

4.17 Subd. 8. **Attorney as agent for service.** Any attorney authorized to serve the
4.18 notice of cancellation by a party initiating a cancellation under this section is designated
4.19 as the attorney who may receive service as agent for the party initiating the cancellation
4.20 of all summons, complaints, orders, and motions made in connection with an action by
4.21 the party upon whom the notice is served to restrain the cancellation, and any responsive
4.22 notice of cancellation as described in subdivision 2. Service in the action and service of a
4.23 responsive notice of cancellation may be made upon the party initiating the cancellation
4.24 by personal service or by mailing a copy of the process or notice to such party or to such
4.25 party's attorney, by first class mail, postage prepaid, to the address stated in the notice.
4.26 Service upon a party by first class mail shall be effective upon delivery to the address
4.27 stated in the notice.

4.28 Sec. 7. Minnesota Statutes 2010, section 580.23, subdivision 2, is amended to read:

4.29 Subd. 2. **12-month redemption period.** Notwithstanding the provisions of
4.30 subdivision 1 hereof, when lands have been sold in conformity with the preceding sections
4.31 of this chapter, the mortgagor, the mortgagor's personal representatives or assigns, within
4.32 12 months after such sale, may redeem such lands in accordance with the provisions
4.33 of payment of subdivision 1 thereof, if:

4.34 (1) the mortgage was executed prior to July 1, 1967;

S.F. No. 137, 1st Engrossment - 87th Legislative Session (2011-2012) [S0137-1]

5.1 (2) the amount claimed to be due and owing as of the date of the notice of foreclosure
5.2 sale is less than 66-2/3 percent of the original principal amount secured by the mortgage;

5.3 (3) the mortgage was executed prior to July 1, 1987, and the mortgaged premises, as
5.4 of the date of the execution of the mortgage, exceeded ten acres in size;

5.5 (4) the mortgage was executed prior to August 1, 1994, and the mortgaged premises,
5.6 as of the date of the execution of the mortgage, exceeded ten acres but did not exceed 40
5.7 acres in size and was in agricultural use as defined in section 40A.02, subdivision 3;

5.8 (5) the mortgaged premises, as of the date of the execution of the mortgage,
5.9 exceeded 40 acres in size; ~~or~~

5.10 (6) the mortgage was executed on or after August 1, 1994, and the mortgaged
5.11 premises, as of the date of the execution of the mortgage, exceeded ten acres but did
5.12 not exceed 40 acres in size and was in agricultural use. For purposes of this clause, "in
5.13 agricultural use" means that at least a portion of the mortgaged premises was classified
5.14 for ad valorem tax purposes as:

5.15 (i) class 2a agricultural homestead property under section 273.13, subdivision 23;

5.16 (ii) class 2b rural or agricultural nonhomestead property under section 273.13,
5.17 subdivision 23;

5.18 (iii) class 1b agricultural homestead property under section 273.13, subdivision
5.19 22; or

5.20 (iv) exempt wetlands under section 272.02, subdivision 11; or

5.21 (7) the mortgage qualifies as a reverse mortgage as defined in section 47.58.

5.22 Sec. 8. Laws 2010, chapter 238, section 7, as amended by Laws 2010, chapter 371,
5.23 section 5, is amended to read:

5.24 Sec. 7. **EFFECTIVE DATE; APPLICATION.**

5.25 Sections 2 and 3 are effective January 1, 2011. Sections 4 to 6 are effective ~~July~~
5.26 ~~1, 2011~~ January 1, 2013, and apply retroactively to child support judgments, including
5.27 judgments by operation of law, that have not expired before ~~July 1, 2011~~ January 1, 2013.

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

5.29 Sec. 9. **EFFECTIVE DATE.**

5.30 (a) Sections 4 to 6 are effective August 1, 2011, and apply to any Notice of
5.31 Cancellation of Purchase Agreement or Responsive Notice of Cancellation of Purchase
5.32 Agreement served on or after that date.

S.F. No. 137, 1st Engrossment - 87th Legislative Session (2011-2012) [S0137-1]

6.1 (b) Section 7 is effective the day following final enactment and applies to
6.2 foreclosures of reverse mortgages in which the notice of foreclosure was published on or
6.3 after the effective date.