508.70 HOW TO CLAIM AN UNREGISTERED INTEREST AFTER REGISTRATION.

Subdivision 1. **Procedure; costs.** (a) Any person claiming any interest in registered land arising or created after the date of the original registration, which does not appear on the certificate of title, may, if there is some impediment to registering the claimed interest, file with the registrar of titles a verified claim of unregistered interest, made by or at the instance of the claimant, stating:

(1) the alleged interest;

(2) how or from whom it was acquired;

(3) the reason the interest cannot be registered;

(4) the number of the affected certificate of title;

(5) a description of the affected land;

(6) a place at which all notices may be served upon the claimant; and

(7) that the claim is not made for the purpose of avoiding the payment of mortgage registry tax under section 287.01 or deed tax under section 287.21, or avoiding obtaining the auditor's statement on an instrument under section 272.12.

(b) If the claimant claims an interest in an unregistered mortgage that is subject to the imposition of mortgage registry tax upon recording, the notice must contain evidence satisfactory to the registrar of titles that the mortgage registry tax has been paid.

(c) A copy of the claim must be mailed to the persons whose registered interests are affected by the claim at their addresses shown on the certificate of title. An affidavit stating the names and addresses of the persons to whom copies of the claim were mailed must be attached to the claim. The claim with attached affidavit regarding mailing shall be entitled to registration, and the court, upon the petition of any party in interest, shall grant a speedy hearing upon the validity of such claim and enter such order as justice and equity may require. If the court determines that the claim is invalid, it shall order the cancellation of the memorial of the claim. The court may, in any case, award such costs and damages, including a reasonable attorney's fee, as it may deem just.

Subd. 2. **Ten-year limit unless new filing.** On and after March 1, 1995, no adverse claim statement, or claim of unregistered interest, shall be notice, either actual or constructive, of any matters referred to in the statement after it has been of record for ten years unless a new statement or claim realleging the facts is filed within the ten-year period upon the affected certificate of title or unless a certified copy of a petition in a subsequent proceeding or a notice of lis pendens to adjudicate the matters alleged in the statement or claim is filed within the ten-year period. The registrar of titles shall not carry forward to new certificates of title the memorial of any statement of adverse claim, or of any claim of unregistered interest, that has terminated as notice pursuant to this subdivision.

Subd. 3. **Exception to ten-year limit; adverse claim statement by government agency.** The provisions of subdivision 2 do not apply to an adverse claim statement made by the United States of America, this state, or any political subdivision, agency, or instrumentality of the United States of America or this state, which statement was filed prior to August 1, 1997, and was a recital or memorial on the certificate of title for the affected real property on July 31, 1997.

Subd. 4. **Demand for discharge.** A person whose registered interest is affected by a statement of adverse claim filed before August 1, 2003, or by a claim of unregistered interest, or the person's agent, may file a

demand for discharge of the claim of unregistered interest. A copy of the demand must be mailed to the claimant at the address stated on the claim. An affidavit stating the name and address of the person to whom a copy of the demand was mailed must be attached to the demand. The demand must be substantially in the following form:

"DEMAND FOR DISCHARGE OF CLAIM OF UNREGISTERED INTEREST

Date:.....

.....

....., (name of person having a registered interest) having a registered interest in

certificate of title No. ....., hereby demands that.....

.....

(name of claimant)

either (1) discharge the claimant's claim of unregistered interest regarding the certificate of title, or (2) petition the court for a determination of the validity of the claim pursuant to Minnesota Statutes, section 508.70, subdivision 1. If the claimant fails to do so the claim will terminate and be of no effect 90 days after this demand for discharge is filed with the registrar of titles of ..... County, Minnesota.

.....

(signature of person having registered interest or agent)"

Unless the claimant has petitioned the court as provided in subdivision 1 and filed with the registrar of titles a certified copy of the petition, the claim shall terminate and be of no effect 90 days after the filing of a demand for discharge with attached affidavit regarding mailing. The registrar of titles shall not carry forward to new certificates of title the memorial of any claim that has terminated or has been discharged pursuant to this subdivision.

Subd. 5. **Priority of claim.** The registration of a claim of unregistered interest has the same effect as to priority as the registration of any instrument under this chapter. If the instrument, under which the claim is made, is filed before the claim has been terminated or discharged, the instrument shall have the same priority as the claim and the registrar of titles shall include in the memorial of the instrument a reference to the document number of the claim.

History: *(8316) RL s 3438; 1905 c 305 s 68; 1986 c 444; 1994 c 388 art 3 s 24; 1997 c 9 s 3; 2003 c 5 art 1 s 5-8; 2013 c 10 s 3*