

FOURTEENTH DAY

St. Paul, Minnesota, Thursday, February 10, 2005

The Senate met at 9:00 a.m. and was called to order by the President.

CALL OF THE SENATE

Senator Betzold imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Annika Lister Stroope.

The roll was called, and the following Senators answered to their names:

Anderson	Frederickson	Kubly	Ortman	Senjem
Bachmann	Gaither	Langseth	Ourada	Skoe
Bakk	Gerlach	Larson	Pappas	Skoglund
Belanger	Hann	LeClair	Pariseau	Solon
Berglin	Higgins	Lourey	Pogemiller	Sparks
Betzold	Hottinger	Marty	Ranum	Tomassoni
Chaudhary	Johnson, D.E.	McGinn	Reiter	Vickerman
Cohen	Johnson, D.J.	Metzen	Rest	Wergin
Day	Jungbauer	Michel	Robling	Wiger
Dibble	Kierlin	Moua	Rosen	
Dille	Kiscaden	Murphy	Ruud	
Fischbach	Kleis	Neuville	Saxhaug	
Foley	Koering	Nienow	Scheid	

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

MEMBERS EXCUSED

Senators Kelley, Limmer, Marko, Olson, Sams and Stumpf were excused from the Session of today.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received and referred to the committees indicated.

January 20, 2005

The Honorable James P. Metzen
President of the Senate

Dear Senator Metzen:

The following appointment is hereby respectfully submitted to the Senate for confirmation as required by law:

BOARD OF TRUSTEES OF THE MINNESOTA STATE COLLEGES
AND UNIVERSITIES SYSTEM

Ruth Grendahl, 13685 Pennock Ave., Apple Valley, in the county of Dakota, effective January 26, 2005, for a term that expires on June 30, 2010.

(Referred to the Committee on Education.)

February 2, 2005

The Honorable James P. Metzen
President of the Senate

Dear Senator Metzen:

The following appointment is hereby respectfully submitted to the Senate for confirmation as required by law:

WORKERS' COMPENSATION COURT OF APPEALS

Miriam P. Rykken, 1389 Highland Pkwy., St. Paul, in the county of Ramsey, effective February 7, 2005, for a term that expires on January 3, 2011.

(Referred to the Committee on Jobs, Energy and Community Development.)

Sincerely,
Tim Pawlenty, Governor

February 8, 2005

The Honorable James P. Metzen
President of the Senate

Dear Senator Metzen:

As the Senate Minority Leader, I am hereby making the following appointments:

Pursuant to Minnesota Statutes 2004

3.97: Legislative Audit Commission - Senator David Hann, for a two-year term expiring upon appointment of a successor after the opening of the regular session of the Legislature in the next odd-numbered year; Senator Warren Limmer, for a similar two-year term; Senator Tom Neuville, for a similar two-year term; and Senator Claire Robling, for a similar two-year term.

Sincerely,
Dick Day
Senate Republican Leader

REPORTS OF COMMITTEES

Senator Johnson, D.E. moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 154: A bill for an act relating to human services; modifying certain provisions regarding medical assistance liens; eliminating recovery efforts for alternative care services; appropriating money; amending Minnesota Statutes 2004, sections 256B.15, subdivisions 1, 1a, 1d, 1e, 1f, 1h, 1i, 1j, 2, 3, 4; 514.981, subdivision 6; 524.3-805; repealing Minnesota Statutes 2004, sections 256B.15, subdivision 1g; 514.991; 514.992; 514.993; 514.994; 514.995.

Reports the same back with the recommendation that the bill be amended as follows:

Page 2, line 7, strike "shall" and insert "must"

Page 5, line 5, strike "else"

Page 24, delete section 14 and insert:

"Sec. 14. [REFUNDS; NOTICES, AND IMMUNITY.]

(a) The commissioner of human services and any county agency that, after a recipient's death, has collected any sum (1) from the estate of a recipient of alternative case services, or (2) attributable to a life estate or joint tenancy interest in real estate that was continued after the death of the recipient, shall promptly refund the amount collected to the person or persons who paid the amount collected, in proportion to each person's contribution to the amount.

(b) If the commissioner determines a person entitled to a refund is dead, the commissioner shall pay the refund to the person's estate if it is open, or to their heirs or devisees as finally determined in any completed probate proceedings or under a final decree of descent. In all other cases, the refund shall be deemed to be abandoned property and the commissioner shall pay and deliver the refund to the commissioner of commerce. The commissioner of commerce shall administer and dispose of the refund in accordance with Minnesota Statutes, sections 345.42 through 345.60. The commissioner of human services shall not be liable to anyone with respect to the refund after paying or delivering the refund as provided for in this paragraph.

(c) Lien notices of record against life estate or joint tenancy interests filed on and after August 1, 2003, shall have no effect and shall not constitute record notice after the death of the person named in the lien or notice unless continued after that time by the terms of the instrument creating the interest, shall be disregarded by examiners of title, and shall not be carried forward to subsequent certificates of title.

(d) The commissioner of human services, county agencies, elected officials, and their employees are immune from all liability for actions taken or not taken in accordance with Laws 2003, First Special Session chapter 14, article 2, sections 47 to 52; article 12, sections 40 to 52 and 90; and sections 1 to 14 of this act.

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

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 254: A bill for an act relating to the operation of state government; modifying parental contributions; modifying several MFIP provisions; modifying medical assistance estate recovery provisions; eliminating recoveries for alternative care costs; removing liens against life estates and joint tenant interests; changing certain income tax provisions; appropriating money; amending Minnesota Statutes 2004, sections 252.27, subdivision 2a; 256B.15, subdivisions 1, 1a, 1d, 1e, 1f, 1h, 1i, 1j, 2, 3, 4; 256J.21, subdivision 2; 256J.95, subdivision 9; 290.01, subdivisions 6b, 19d; 290.17, subdivisions 2, 4; 514.981, subdivision 6; 524.3-805; repealing Minnesota Statutes 2004, sections 256B.15, subdivision 1g; 256J.37, subdivisions 3a, 3b; 514.991; 514.992; 514.993; 514.994; 514.995.

Reports the same back with the recommendation that the bill be amended as follows:

Page 16, line 31, strike "to"

Page 16, line 32, delete "(d)" and insert "and (c)"

Page 20, lines 12 and 14, delete the new language and strike the old language

Page 20, lines 13 and 15, strike the old language

Page 20, line 16, delete "(d)" and insert "(c)"

Page 20, line 17, strike "under paragraph" and delete "(c)" and strike the first comma

Page 20, line 36, delete "their estate"

Page 32, delete section 14 and insert:

"Sec. 14. [REFUNDS; NOTICES, AND IMMUNITY.]

(a) The commissioner of human services and any county agency that, after a recipient's death, has collected any sum (1) from the estate of a recipient of alternative case services, or (2) attributable to a life estate or joint tenancy interest in real estate that was continued after the death of the recipient, shall promptly refund the amount collected to the person or persons who paid the amount collected, in proportion to each person's contribution to the amount.

(b) If the commissioner determines a person entitled to a refund is dead, the commissioner shall pay the refund to the person's estate if it is open, or to their heirs or devisees as finally determined in any completed probate proceedings or under a final decree of descent. In all other cases, the refund shall be deemed to be abandoned property and the commissioner shall pay and deliver the refund to the commissioner of commerce. The commissioner of commerce shall administer and dispose of the refund in accordance with Minnesota Statutes, sections 345.42 through 345.60. The commissioner of human services shall not be liable to anyone with respect to the refund after paying or delivering the refund as provided for in this paragraph.

(c) Lien notices of record against life estate or joint tenancy interests filed on and after August 1, 2003, shall have no effect and shall not constitute record notice after the death of the person named in the lien or notice unless continued after that time by the terms of the instrument creating the interest, shall be disregarded by examiners of title, and shall not be carried forward to subsequent certificates of title.

(d) The commissioner of human services, county agencies, elected officials, and their employees are immune from all liability for actions taken or not taken in accordance with Laws 2003, First Special Session chapter 14, article 2, sections 47 to 52; article 12, sections 40 to 52 and 90; and sections 1 to 14 of this act.

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

And when so amended the bill do pass and be re-referred to the Committee on Taxes. Amendments adopted. Report adopted.

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 175: A bill for an act relating to human services; modifying medical assistance estate recovery provisions; eliminating recoveries for alternative care costs; removing liens against life estates and joint tenant interests; appropriating money; amending Minnesota Statutes 2004, sections 256B.15, subdivisions 1, 1a, 2, 3, 4; 514.981, subdivision 6; 524.3-805; repealing Minnesota Statutes 2004, sections 256B.15, subdivisions 1c, 1d, 1e, 1f, 1g, 1h, 1i, 1j, 1k; 514.991; 514.992; 514.993; 514.994; 514.995.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 256B.15, subdivision 1, is amended to read:

Subdivision 1. [~~POLICY, APPLICABILITY, PURPOSE, AND CONSTRUCTION; DEFINITION.~~] (a) It is the policy of this state that individuals or couples, either or both of whom

participate in the medical assistance program, use their own assets to pay their share of the total cost of their care during or after their enrollment in the program according to applicable federal law and the laws of this state. The following provisions apply:

~~(1) subdivisions 1c to 1k shall not apply to claims arising under this section which are presented under section 525.313;~~

~~(2) the provisions of subdivisions 1c to 1k expanding the interests included in an estate for purposes of recovery under this section give effect to the provisions of United States Code, title 42, section 1396p, governing recoveries, but do not give rise to any express or implied liens in favor of any other parties not named in these provisions; and~~

~~(3) the continuation of a recipient's life estate or joint tenancy interest in real property after the recipient's death for the purpose of recovering medical assistance under this section modifies common law principles holding that these interests terminate on the death of the holder;~~

~~(4) (2) all laws, rules, and regulations governing or involved with a recovery of medical assistance shall must be liberally construed to accomplish their intended purposes;~~

~~(5) a deceased recipient's life estate and joint tenancy interests continued under this section shall be owned by the remaindermen or surviving joint tenants as their interests may appear on the date of the recipient's death. They shall not be merged into the remainder interest or the interests of the surviving joint tenants by reason of ownership. They shall be subject to the provisions of this section. Any conveyance, transfer, sale, assignment, or encumbrance by a remainderman, a surviving joint tenant, or their heirs, successors, and assigns shall be deemed to include all of their interest in the deceased recipient's life estate or joint tenancy interest continued under this section; and~~

~~(6) the provisions of subdivisions 1c to 1k continuing a recipient's joint tenancy interests in real property after the recipient's death do not apply to a homestead owned of record, on the date the recipient dies, by the recipient and the recipient's spouse as joint tenants with a right of survivorship. Homestead means the real property occupied by the surviving joint tenant spouse as their sole residence on the date the recipient dies and classified and taxed to the recipient and surviving joint tenant spouse as homestead property for property tax purposes in the calendar year in which the recipient dies. For purposes of this exemption, real property the recipient and their surviving joint tenant spouse purchase solely with the proceeds from the sale of their prior homestead, own of record as joint tenants, and qualify as homestead property under section 273.124 in the calendar year in which the recipient dies and prior to the recipient's death shall be deemed to be real property classified and taxed to the recipient and their surviving joint tenant spouse as homestead property in the calendar year in which the recipient dies. The surviving spouse, or any person with personal knowledge of the facts, may provide an affidavit describing the homestead property affected by this clause and stating facts showing compliance with this clause. The affidavit shall be prima facie evidence of the facts it states.~~

~~(b) For purposes of this section, "medical assistance" includes the medical assistance program under this chapter and the general assistance medical care program under chapter 256D and but does not include the alternative care program for nonmedical assistance recipients under section 256B.0913.~~

~~**[EFFECTIVE DATE.]** The amendments in this section relating to the alternative care program are effective retroactively from July 1, 2003, and apply to the estates of decedents who die on or after that date. The remaining amendments in this section are effective retroactively from August 1, 2003, and apply to the estates of decedents who die on or after that date.~~

Sec. 2. Minnesota Statutes 2004, section 256B.15, subdivision 1a, is amended to read:

Subd. 1a. [ESTATES SUBJECT TO CLAIMS.] If a person receives any medical assistance hereunder, on the person's death, if single, or on the death of the survivor of a married couple, either or both of whom received medical assistance, ~~or as otherwise provided for in this section,~~ the total amount paid for medical assistance rendered for the person and spouse shall be filed as a

claim against the estate of the person or the estate of the surviving spouse in the court having jurisdiction to probate the estate or to issue a decree of descent according to sections 525.31 to 525.313.

A claim shall be filed if medical assistance was rendered for either or both persons under one of the following circumstances:

(a) the person was over 55 years of age, and received services under this chapter, excluding alternative care;

(b) the person resided in a medical institution for six months or longer, received services under this chapter, excluding alternative care, and, at the time of institutionalization or application for medical assistance, whichever is later, the person could not have reasonably been expected to be discharged and returned home, as certified in writing by the person's treating physician. For purposes of this section only, a "medical institution" means a skilled nursing facility, intermediate care facility, intermediate care facility for persons with mental retardation, nursing facility, or inpatient hospital; or

(c) the person received general assistance medical care services under chapter 256D.

The claim shall be considered an expense of the last illness of the decedent for the purpose of section 524.3-805. Any statute of limitations that purports to limit any county agency or the state agency, or both, to recover for medical assistance granted hereunder shall not apply to any claim made hereunder for reimbursement for any medical assistance granted hereunder. Notice of the claim shall be given to all heirs and devisees of the decedent whose identity can be ascertained with reasonable diligence. The notice must include procedures and instructions for making an application for a hardship waiver under subdivision 5; time frames for submitting an application and determination; and information regarding appeal rights and procedures. Counties are entitled to one-half of the nonfederal share of medical assistance collections from estates that are directly attributable to county effort. ~~Counties are entitled to ten percent of the collections for alternative care directly attributable to county effort.~~

[EFFECTIVE DATE.] The amendments in this section relating to the alternative care program are effective retroactively from July 1, 2003, and apply to the estates of decedents who die on or after that date. The remaining amendments in this section are effective retroactively from August 1, 2003, and apply to the estates of decedents who die on or after that date.

Sec. 3. Minnesota Statutes 2004, section 256B.15, subdivision 1d, is amended to read:

Subd. 1d. [EFFECT OF NOTICE.] From the time it takes effect, the notice shall be notice to ~~remaindermen, joint tenants, or to anyone else owning or acquiring an interest in or encumbrance against the property described in the notice that the medical assistance recipient's life estate, joint tenancy, or other interests in the real estate described in the notice:~~

(1) ~~shall, in the case of life estate and joint tenancy interests, continue to exist for purposes of this section, and be subject to liens and claims as provided in this section;~~

(2) shall be subject to a lien in favor of the claimant effective upon the death of the recipient and dealt with as provided in this section;

(3) (2) may be included in the recipient's estate, as defined in this section; and

(4) (3) may be subject to administration and all other provisions of chapter 524 and may be sold, assigned, transferred, or encumbered free and clear of their interest or encumbrance to satisfy claims under this section.

[EFFECTIVE DATE.] This section is effective retroactively from August 1, 2003.

Sec. 4. Minnesota Statutes 2004, section 256B.15, subdivision 1e, is amended to read:

Subd. 1e. [FULL OR PARTIAL RELEASE OF NOTICE.] (a) The claimant may fully or

partially release the notice and the lien arising out of the notice of record in the real estate records where the notice is filed or recorded at any time. ~~The claimant may give a full or partial release to extinguish any life estates or joint tenancy interests which are or may be continued under this section or whose existence or nonexistence may create a cloud on the title to real property at any time whether or not a notice has been filed.~~ The recorder or registrar of titles shall accept the release for recording or filing. If the release is a partial release, it must include a legal description of the property being released.

(b) At any time, the claimant may, at the claimant's discretion, wholly or partially release, subordinate, modify, or amend the recorded notice and the lien arising out of the notice.

[EFFECTIVE DATE.] This section is effective retroactively from August 1, 2003.

Sec. 5. Minnesota Statutes 2004, section 256B.15, subdivision 1f, is amended to read:

Subd. 1f. [AGENCY LIEN.] (a) The notice shall constitute a lien in favor of the Department of Human Services against the recipient's interests in the real estate it describes for a period of 20 years from the date of filing or the date of the recipient's death, whichever is later. ~~Notwithstanding any law or rule to the contrary, a recipient's life estate and joint tenancy interests shall not end upon the recipient's death but shall continue according to subdivisions 1h, 1i, and 1j.~~ The amount of the lien shall be equal to the total amount of the claims that could be presented in the recipient's estate under this section.

(b) If no estate has been opened for the deceased recipient, any holder of an interest in the property may apply to the lien holder for a statement of the amount of the lien or for a full or partial release of the lien. The application shall include the applicant's name, current mailing address, current home and work telephone numbers, and a description of their interest in the property, a legal description of the recipient's interest in the property, and the deceased recipient's name, date of birth, and Social Security number. The lien holder shall send the applicant by certified mail, return receipt requested, a written statement showing the amount of the lien, whether the lien holder is willing to release the lien and under what conditions, and inform them of the right to a hearing under section 256.045. The lien holder shall have the discretion to compromise and settle the lien upon any terms and conditions the lien holder deems appropriate.

(c) Any holder of an interest in property subject to the lien has a right to request a hearing under section 256.045 to determine the validity, extent, or amount of the lien. The request must be in writing, and must include the names, current addresses, and home and business telephone numbers for all other parties holding an interest in the property. A request for a hearing by any holder of an interest in the property shall be deemed to be a request for a hearing by all parties owning interests in the property. Notice of the hearing shall be given to the lien holder, the party filing the appeal, and all of the other holders of interests in the property at the addresses listed in the appeal by certified mail, return receipt requested, or by ordinary mail. Any owner of an interest in the property to whom notice of the hearing is mailed shall be deemed to have waived any and all claims or defenses in respect to the lien unless they appear and assert any claims or defenses at the hearing.

(d) If the claim the lien secures could be filed under subdivision 1h, the lien holder may collect, compromise, settle, or release the lien upon any terms and conditions it deems appropriate. If the claim the lien secures could be filed under subdivision 1i or 1j, the lien may be adjusted or enforced to the same extent had it been filed under subdivisions 1i and 1j, and the provisions of subdivisions 1i, clause (f) ~~(e)~~, and 1j, clause (d), shall apply to voluntary payment, settlement, or satisfaction of the lien.

~~(e) If no probate proceedings have been commenced for the recipient as of the date the lien holder executes a release of the lien on a recipient's life estate or joint tenancy interest, created for purposes of this section, the release shall terminate the life estate or joint tenancy interest created under this section as of the date it is recorded or filed to the extent of the release. If the claimant executes a release for purposes of extinguishing a life estate or a joint tenancy interest created under this section to remove a cloud on title to real property, the release shall have the effect of extinguishing any life estate or joint tenancy interests in the property it describes which may have~~

been continued by reason of this section retroactive to the date of death of the deceased life tenant or joint tenant except as provided for in section 514.981, subdivision 6.

(f) If the deceased recipient's estate is probated, a claim shall be filed under this section. The amount of the lien shall be limited to the amount of the claim as finally allowed. If the claim the lien secures is filed under subdivision 1h, the lien may be released in full after any allowance of the claim becomes final or according to any agreement to settle and satisfy the claim. The release shall release the lien but shall not extinguish or terminate the interest being released. If the claim the lien secures is filed under subdivision 1i or 1j, the lien shall be released after the lien under subdivision 1i or 1j is filed or recorded, or settled according to any agreement to settle and satisfy the claim. The release shall not extinguish or terminate the interest being released. If the claim is finally disallowed in full, the claimant shall release the claimant's lien at the claimant's expense.

[EFFECTIVE DATE.] This section is effective retroactively from August 1, 2003.

Sec. 6. Minnesota Statutes 2004, section 256B.15, subdivision 1h, is amended to read:

Subd. 1h. **[ESTATES OF SPECIFIC PERSONS RECEIVING MEDICAL ASSISTANCE.]** (a) For purposes of this section, paragraphs (b) to (k) and (c) apply if a person received medical assistance for which a claim may be filed under this section and died single, or the surviving spouse of the couple and was not survived by any of the persons described in subdivisions 3 and 4.

(b) For purposes of this section, the person's estate consists of: (1) their probate estate; (2) all of the person's interests or proceeds of those interests in real property the person owned as a life tenant or as a joint tenant with a right of survivorship at the time of the person's death; (3) all of the person's interests or proceeds of those interests in securities the person owned in beneficiary form as provided under sections 524.6-301 to 524.6-311 at the time of the person's death, to the extent they become part of the probate estate under section 524.6-307; and (4) (3) all of the person's interests in joint accounts, multiple party accounts, and pay on death accounts, or the proceeds of those accounts, as provided under sections 524.6-201 to 524.6-214 at the time of the person's death to the extent they become part of the probate estate under section 524.6-207. Notwithstanding any law or rule to the contrary, a state or county agency with a claim under this section shall be a creditor under section 524.6-307.

(c) ~~Notwithstanding any law or rule to the contrary, the person's life estate or joint tenancy interest in real property not subject to a medical assistance lien under sections 514.980 to 514.985 on the date of the person's death shall not end upon the person's death and shall continue as provided in this subdivision. The life estate in the person's estate shall be that portion of the interest in the real property subject to the life estate that is equal to the life estate percentage factor for the life estate as listed in the Life Estate Mortality Table of the health care program's manual for a person who was the age of the medical assistance recipient on the date of the person's death. The joint tenancy interest in real property in the estate shall be equal to the fractional interest the person would have owned in the jointly held interest in the property had they and the other owners held title to the property as tenants in common on the date the person died.~~

(d) ~~The court upon its own motion, or upon motion by the personal representative or any interested party, may enter an order directing the remaindermen or surviving joint tenants and their spouses, if any, to sign all documents, take all actions, and otherwise fully cooperate with the personal representative and the court to liquidate the decedent's life estate or joint tenancy interests in the estate and deliver the cash or the proceeds of those interests to the personal representative and provide for any legal and equitable sanctions as the court deems appropriate to enforce and carry out the order, including an award of reasonable attorney fees.~~

(e) ~~The personal representative may make, execute, and deliver any conveyances or other documents necessary to convey the decedent's life estate or joint tenancy interest in the estate that are necessary to liquidate and reduce to cash the decedent's interest or for any other purposes.~~

(f) ~~Subject to administration, all costs, including reasonable attorney fees, directly and immediately related to liquidating the decedent's life estate or joint tenancy interest in the decedent's estate, shall be paid from the gross proceeds of the liquidation allocable to the~~

decedent's interest and the net proceeds shall be turned over to the personal representative and applied to payment of the claim presented under this section.

(g) ~~The personal representative shall bring a motion in the district court in which the estate is being probated to compel the remaindermen or surviving joint tenants to account for and deliver to the personal representative all or any part of the proceeds of any sale, mortgage, transfer, conveyance, or any disposition of real property allocable to the decedent's life estate or joint tenancy interest in the decedent's estate, and do everything necessary to liquidate and reduce to cash the decedent's interest and turn the proceeds of the sale or other disposition over to the personal representative. The court may grant any legal or equitable relief including, but not limited to, ordering a partition of real estate under chapter 558 necessary to make the value of the decedent's life estate or joint tenancy interest available to the estate for payment of a claim under this section.~~

(h) Subject to administration, the personal representative shall use all of the cash or proceeds of interests to pay an allowable claim under this section. The remaindermen or surviving joint tenants and their spouses, if any, may enter into a written agreement with the personal representative or the claimant to settle and satisfy obligations imposed at any time before or after a claim is filed.

(i) ~~The personal representative may, at their discretion, provide any or all of the other owners, remaindermen, or surviving joint tenants with an affidavit terminating the decedent's estate's interest in real property the decedent owned as a life tenant or as a joint tenant with others, if the personal representative determines in good faith that neither the decedent nor any of the decedent's predeceased spouses received any medical assistance for which a claim could be filed under this section, or if the personal representative has filed an affidavit with the court that the estate has other assets sufficient to pay a claim, as presented, or if there is a written agreement under paragraph (h), or if the claim, as allowed, has been paid in full or to the full extent of the assets the estate has available to pay it. The affidavit may be recorded in the office of the county recorder or filed in the Office of the Registrar of Titles for the county in which the real property is located. Except as provided in section 514.981, subdivision 6, when recorded or filed, the affidavit shall terminate the decedent's interest in real estate the decedent owned as a life tenant or a joint tenant with others. The affidavit shall: (1) be signed by the personal representative; (2) identify the decedent and the interest being terminated; (3) give recording information sufficient to identify the instrument that created the interest in real property being terminated; (4) legally describe the affected real property; (5) state that the personal representative has determined that neither the decedent nor any of the decedent's predeceased spouses received any medical assistance for which a claim could be filed under this section; (6) state that the decedent's estate has other assets sufficient to pay the claim, as presented, or that there is a written agreement between the personal representative and the claimant and the other owners or remaindermen or other joint tenants to satisfy the obligations imposed under this subdivision; and (7) state that the affidavit is being given to terminate the estate's interest under this subdivision, and any other contents as may be appropriate.~~

~~The recorder or registrar of titles shall accept the affidavit for recording or filing. The affidavit shall be effective as provided in this section and shall constitute notice even if it does not include recording information sufficient to identify the instrument creating the interest it terminates. The affidavit shall be conclusive evidence of the stated facts.~~

(j) ~~The holder of a lien arising under subdivision 1c shall release the lien at the holder's expense against an interest terminated under paragraph (h) to the extent of the termination.~~

(k) (c) ~~If a lien arising under subdivision 1c is not released under paragraph (j), prior to closing the estate, the personal representative shall deed the interest subject to the lien to the remaindermen or surviving joint tenants as their interests may appear. Upon recording or filing, the deed shall work a merger of the recipient's life estate or joint tenancy interest, subject to the lien, into the remainder interest or interest the decedent and others owned jointly heirs or devisees subject to the lien. The lien shall attach to and run with the property to the extent of the decedent's interest at the time of the decedent's death.~~

[EFFECTIVE DATE.] This section is effective retroactively from August 1, 2003.

Sec. 7. Minnesota Statutes 2004, section 256B.15, subdivision 1i, is amended to read:

Subd. 1i. [ESTATES OF PERSONS RECEIVING MEDICAL ASSISTANCE AND SURVIVED BY OTHERS.] (a) For purposes of this subdivision, the person's estate ~~consists of the person's probate estate and all of the person's interests in real property the person owned as a life tenant or a joint tenant at the time of the person's death~~ is as defined in subdivision 1h, paragraph (b).

(b) Notwithstanding any law or rule to the contrary, this subdivision applies if a person received medical assistance for which a claim could be filed under this section but for the fact the person was survived by a spouse or by a person listed in subdivision 3, or if subdivision 4 applies to a claim arising under this section.

(c) ~~The person's life estate or joint tenancy interests in real property not subject to a medical assistance lien under sections 514.980 to 514.985 on the date of the person's death shall not end upon death and shall continue as provided in this subdivision. The life estate in the estate shall be the portion of the interest in the property subject to the life estate that is equal to the life estate percentage factor for the life estate as listed in the Life Estate Mortality Table of the health care program's manual for a person who was the age of the medical assistance recipient on the date of the person's death. The joint tenancy interest in the estate shall be equal to the fractional interest the medical assistance recipient would have owned in the jointly held interest in the property had they and the other owners held title to the property as tenants in common on the date the medical assistance recipient died.~~

(d) The county agency shall file a claim in the estate under this section on behalf of the claimant who shall be the commissioner of human services, notwithstanding that the decedent is survived by a spouse or a person listed in subdivision 3. The claim, as allowed, shall not be paid by the estate and shall be disposed of as provided in this paragraph. The personal representative or the court shall make, execute, and deliver a lien in favor of the claimant on the decedent's interest in real property in the estate in the amount of the allowed claim on forms provided by the commissioner to the county agency filing the lien. The lien shall bear interest as provided under section 524.3-806, shall attach to the property it describes upon filing or recording, and shall remain a lien on the real property it describes for a period of 20 years from the date it is filed or recorded. The lien shall be a disposition of the claim sufficient to permit the estate to close.

~~(e) (d) The state or county agency shall file or record the lien in the office of the county recorder or registrar of titles for each county in which any of the real property is located. The recorder or registrar of titles shall accept the lien for filing or recording. All recording or filing fees shall be paid by the Department of Human Services. The recorder or registrar of titles shall mail the recorded lien to the Department of Human Services. The lien need not be attested, certified, or acknowledged as a condition of recording or filing. Upon recording or filing of a lien against a life estate or a joint tenancy interest, the interest subject to the lien shall merge into the remainder interest or the interest the recipient and others owned jointly. The lien shall attach to and run with the property to the extent of the decedent's interest in the property at the time of the decedent's death as determined under this section.~~

~~(f) (e) The department shall make no adjustment or recovery under the lien until after the decedent's spouse, if any, has died, and only at a time when the decedent has no surviving child described in subdivision 3. The estate, any owner of an interest in the property which is or may be subject to the lien, or any other interested party, may voluntarily pay off, settle, or otherwise satisfy the claim secured or to be secured by the lien at any time before or after the lien is filed or recorded. Such payoffs, settlements, and satisfactions shall be deemed to be voluntary repayments of past medical assistance payments for the benefit of the deceased recipient, and neither the process of settling the claim, the payment of the claim, or the acceptance of a payment shall constitute an adjustment or recovery that is prohibited under this subdivision.~~

~~(g) (f) The lien under this subdivision may be enforced or foreclosed in the manner provided by law for the enforcement of judgment liens against real estate or by a foreclosure by action under chapter 581. When the lien is paid, satisfied, or otherwise discharged, the state or county agency shall prepare and file a release of lien at its own expense. No action to foreclose the lien shall be~~

commenced unless the lien holder has first given 30 days' prior written notice to pay the lien to the owners and parties in possession of the property subject to the lien. The notice shall: (1) include the name, address, and telephone number of the lien holder; (2) describe the lien; (3) give the amount of the lien; (4) inform the owner or party in possession that payment of the lien in full must be made to the lien holder within 30 days after service of the notice or the lien holder may begin proceedings to foreclose the lien; and (5) be served by personal service, certified mail, return receipt requested, ordinary first class mail, or by publishing it once in a newspaper of general circulation in the county in which any part of the property is located. Service of the notice shall be complete upon mailing or publication.

[EFFECTIVE DATE.] This section is effective retroactively from August 1, 2003.

Sec. 8. Minnesota Statutes 2004, section 256B.15, subdivision 1j, is amended to read:

Subd. 1j. **[CLAIMS IN ESTATES OF DECEDENTS SURVIVED BY OTHER SURVIVORS.]** For purposes of this subdivision, the provisions in subdivision 1i, paragraphs (a) to ~~(e)~~ and (b) apply.

(a) If payment of a claim filed under this section is limited as provided in subdivision 4, and if the estate does not have other assets sufficient to pay the claim in full, as allowed, the personal representative or the court shall make, execute, and deliver a lien on the property in the estate that is exempt from the claim under subdivision 4 in favor of the commissioner of human services on forms provided by the commissioner to the county agency filing the claim. If the estate pays a claim filed under this section in full from other assets of the estate, no lien shall be filed against the property described in subdivision 4.

(b) The lien shall be in an amount equal to the unpaid balance of the allowed claim under this section remaining after the estate has applied all other available assets of the estate to pay the claim. The property exempt under subdivision 4 shall not be sold, assigned, transferred, conveyed, encumbered, or distributed until after the personal representative has determined the estate has other assets sufficient to pay the allowed claim in full, or until after the lien has been filed or recorded. The lien shall bear interest as provided under section 524.3-806, shall attach to the property it describes upon filing or recording, and shall remain a lien on the real property it describes for a period of 20 years from the date it is filed or recorded. The lien shall be a disposition of the claim sufficient to permit the estate to close.

(c) The state or county agency shall file or record the lien in the office of the county recorder or registrar of titles in each county in which any of the real property is located. The department shall pay the filing fees. The lien need not be attested, certified, or acknowledged as a condition of recording or filing. The recorder or registrar of titles shall accept the lien for filing or recording.

(d) The commissioner shall make no adjustment or recovery under the lien until none of the persons listed in subdivision 4 are residing on the property or until the property is sold or transferred. The estate or any owner of an interest in the property that is or may be subject to the lien, or any other interested party, may voluntarily pay off, settle, or otherwise satisfy the claim secured or to be secured by the lien at any time before or after the lien is filed or recorded. The payoffs, settlements, and satisfactions shall be deemed to be voluntary repayments of past medical assistance payments for the benefit of the deceased recipient and neither the process of settling the claim, the payment of the claim, or acceptance of a payment shall constitute an adjustment or recovery that is prohibited under this subdivision.

(e) A lien under this subdivision may be enforced or foreclosed in the manner provided for by law for the enforcement of judgment liens against real estate or by a foreclosure by action under chapter 581. When the lien has been paid, satisfied, or otherwise discharged, the claimant shall prepare and file a release of lien at the claimant's expense. No action to foreclose the lien shall be commenced unless the lien holder has first given 30 days prior written notice to pay the lien to the record owners of the property and the parties in possession of the property subject to the lien. The notice shall: (1) include the name, address, and telephone number of the lien holder; (2) describe the lien; (3) give the amount of the lien; (4) inform the owner or party in possession that payment of the lien in full must be made to the lien holder within 30 days after service of the notice or the

lien holder may begin proceedings to foreclose the lien; and (5) be served by personal service, certified mail, return receipt requested, ordinary first class mail, or by publishing it once in a newspaper of general circulation in the county in which any part of the property is located. Service shall be complete upon mailing or publication.

~~(f) Upon filing or recording of a lien against a life estate or joint tenancy interest under this subdivision, the interest subject to the lien shall merge into the remainder interest or the interest the decedent and others owned jointly, effective on the date of recording and filing. The lien shall attach to and run with the property to the extent of the decedent's interest in the property at the time of the decedent's death as determined under this section.~~

~~(g)(1) An affidavit may be provided by a personal representative, at their discretion, stating the personal representative has determined in good faith that a decedent survived by a spouse or a person listed in subdivision 3, or by a person listed in subdivision 4, or the decedent's predeceased spouse did not receive any medical assistance giving rise to a claim under this section, or that the real property described in subdivision 4 is not needed to pay in full a claim arising under this section.~~

(2) The affidavit shall:

(i) describe the property and the interest being extinguished;

(ii) name the decedent and give the date of death;

(iii) state the facts listed in clause (1);

(iv) state that the affidavit is being filed to terminate the life estate or joint tenancy interest created under this subdivision;

(v) be signed by the personal representative; and

(vi) contain any other information that the affiant deems appropriate.

~~(3) Except as provided in section 514.981, subdivision 6, when the affidavit is filed or recorded, the life estate or joint tenancy interest in real property that the affidavit describes shall be terminated effective as of the date of filing or recording. The termination shall be final and may not be set aside for any reason.~~

[EFFECTIVE DATE.] This section is effective retroactively from August 1, 2003.

Sec. 9. Minnesota Statutes 2004, section 256B.15, subdivision 2, is amended to read:

Subd. 2. **[LIMITATIONS ON CLAIMS.]** The claim shall include only the total amount of medical assistance rendered after age 55 or during a period of institutionalization described in subdivision 1a, clause (b), and the total amount of general assistance medical care rendered, and shall not include interest. Claims that have been allowed but not paid shall bear interest according to section 524.3-806, paragraph (d). A claim against the estate of a surviving spouse who did not receive medical assistance, for medical assistance rendered for the predeceased spouse, is limited to the value of the assets of the estate that were marital property or jointly owned property at any time during the marriage. ~~Claims for alternative care shall be net of all premiums paid under section 256B.0913, subdivision 12, on or after July 1, 2003, and shall be limited to services provided on or after July 1, 2003.~~

[EFFECTIVE DATE.] This section is effective retroactively from July 1, 2003, for decedents dying on or after that date.

Sec. 10. Minnesota Statutes 2004, section 256B.15, subdivision 3, is amended to read:

Subd. 3. **[SURVIVING SPOUSE, MINOR, BLIND, OR DISABLED CHILDREN.]** If a decedent ~~is survived by a spouse, or who was single or who was the surviving spouse of a married couple and is survived by a child who is under age 21 or blind or permanently and totally disabled according to the supplemental security income program criteria, a no claim shall be filed against the estate according to this section.~~

[EFFECTIVE DATE.] This section is effective retroactively from August 1, 2003.

Sec. 11. Minnesota Statutes 2004, section 256B.15, subdivision 4, is amended to read:

Subd. 4. [OTHER SURVIVORS.] If the decedent who was single or the surviving spouse of a married couple is survived by one of the following persons, a claim exists against the estate in an amount not to exceed the value of the nonhomestead property included in the estate ~~and the personal representative shall make, execute, and deliver to the county agency a lien against the homestead property in the estate for any unpaid balance of the claim to the claimant as provided under this section:~~

(a) (1) a sibling who resided in the decedent medical assistance recipient's home at least one year before the decedent's institutionalization and continuously since the date of institutionalization; or

(b) (2) a son or daughter or a grandchild who resided in the decedent medical assistance recipient's home for at least two years immediately before the parent's or grandparent's institutionalization and continuously since the date of institutionalization, and who establishes by a preponderance of the evidence having provided care to the parent or grandparent who received medical assistance, that the care was provided before institutionalization, and that the care permitted the parent or grandparent to reside at home rather than in an institution.

[EFFECTIVE DATE.] This section is effective retroactively from August 1, 2003, and applies to decedents who die on or after that date.

Sec. 12. Minnesota Statutes 2004, section 514.981, subdivision 6, is amended to read:

Subd. 6. [TIME LIMITS; CLAIM LIMITS; ~~LIENS ON LIFE ESTATES AND JOINT TENANCIES.~~] (a) A medical assistance lien is a lien on the real property it describes for a period of ten years from the date it attaches according to section 514.981, subdivision 2, paragraph (a), except as otherwise provided for in sections 514.980 to 514.985. The agency may renew a medical assistance lien for an additional ten years from the date it would otherwise expire by recording or filing a certificate of renewal before the lien expires. The certificate shall be recorded or filed in the office of the county recorder or registrar of titles for the county in which the lien is recorded or filed. The certificate must refer to the recording or filing data for the medical assistance lien it renews. The certificate need not be attested, certified, or acknowledged as a condition for recording or filing. The registrar of titles or the recorder shall file, record, index, and return the certificate of renewal in the same manner as provided for medical assistance liens in section 514.982, subdivision 2.

(b) A medical assistance lien is not enforceable against the real property of an estate to the extent there is a determination by a court of competent jurisdiction, or by an officer of the court designated for that purpose, that there are insufficient assets in the estate to satisfy the agency's medical assistance lien in whole or in part because of the homestead exemption under section 256B.15, subdivision 4, the rights of the surviving spouse or minor children under section 524.2-403, paragraphs (a) and (b), or claims with a priority under section 524.3-805, paragraph (a), clauses (1) to (4). For purposes of this section, the rights of the decedent's adult children to exempt property under section 524.2-403, paragraph (b), shall not be considered costs of administration under section 524.3-805, paragraph (a), clause (1).

(c) ~~Notwithstanding any law or rule to the contrary, the provisions in clauses (1) to (7) apply if a life estate subject to a medical assistance lien ends according to its terms, or if a medical assistance recipient who owns a life estate or any interest in real property as a joint tenant that is subject to a medical assistance lien dies.~~

(1) ~~The medical assistance recipient's life estate or joint tenancy interest in the real property shall not end upon the recipient's death but shall merge into the remainder interest or other interest in real property the medical assistance recipient owned in joint tenancy with others. The medical assistance lien shall attach to and run with the remainder or other interest in the real property to the extent of the medical assistance recipient's interest in the property at the time of the recipient's death as determined under this section.~~

~~(2) If the medical assistance recipient's interest was a life estate in real property, the lien shall be a lien against the portion of the remainder equal to the percentage factor for the life estate of a person the medical assistance recipient's age on the date the life estate ended according to its terms or the date of the medical assistance recipient's death as listed in the Life Estate Mortality Table in the health care program's manual.~~

~~(3) If the medical assistance recipient owned the interest in real property in joint tenancy with others, the lien shall be a lien against the portion of that interest equal to the fractional interest the medical assistance recipient would have owned in the jointly owned interest had the medical assistance recipient and the other owners held title to that interest as tenants in common on the date the medical assistance recipient died.~~

~~(4) The medical assistance lien shall remain a lien against the remainder or other jointly owned interest for the length of time and be renewable as provided in paragraph (a).~~

~~(5) Subdivision 5, paragraph (a), clause (4), paragraph (b), clauses (1) and (2); and subdivision 6, paragraph (b), do not apply to medical assistance liens which attach to interests in real property as provided under this subdivision.~~

~~(6) The continuation of a medical assistance recipient's life estate or joint tenancy interest in real property after the medical assistance recipient's death for the purpose of recovering medical assistance provided for in sections 514.980 to 514.985 modifies common law principles holding that these interests terminate on the death of the holder.~~

~~(7) Notwithstanding any law or rule to the contrary, no release, satisfaction, discharge, or affidavit under section 256B.15 shall extinguish or terminate the life estate or joint tenancy interest of a medical assistance recipient subject to a lien under sections 514.980 to 514.985 on the date the recipient dies.~~

~~(8) The provisions of clauses (1) to (7) do not apply to a homestead owned of record, on the date the recipient dies, by the recipient and the recipient's spouse as joint tenants with a right of survivorship. Homestead means the real property occupied by the surviving joint tenant spouse as their sole residence on the date the recipient dies and classified and taxed to the recipient and surviving joint tenant spouse as homestead property for property tax purposes in the calendar year in which the recipient dies. For purposes of this exemption, real property the recipient and their surviving joint tenant spouse purchase solely with the proceeds from the sale of their prior homestead, own of record as joint tenants, and qualify as homestead property under section 273.124 in the calendar year in which the recipient dies and prior to the recipient's death shall be deemed to be real property classified and taxed to the recipient and their surviving joint tenant spouse as homestead property in the calendar year in which the recipient dies. The surviving spouse, or any person with personal knowledge of the facts, may provide an affidavit describing the homestead property affected by this clause and stating facts showing compliance with this clause. The affidavit shall be prima facie evidence of the facts it states.~~

[EFFECTIVE DATE.] This section is effective retroactively from August 1, 2003.

Sec. 13. Minnesota Statutes 2004, section 524.3-805, is amended to read:

524.3-805 [CLASSIFICATION OF CLAIMS.]

(a) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

(1) costs and expenses of administration;

(2) reasonable funeral expenses;

(3) debts and taxes with preference under federal law;

(4) reasonable and necessary medical, hospital, or nursing home expenses of the last illness of the decedent, including compensation of persons attending the decedent, ~~a claim filed under~~

~~section 256B.15 for recovery of expenditures for alternative care for nonmedical assistance recipients under section 256B.0913, and including a claim filed pursuant to section 256B.15;~~

(5) reasonable and necessary medical, hospital, and nursing home expenses for the care of the decedent during the year immediately preceding death;

(6) debts with preference under other laws of this state, and state taxes;

(7) all other claims.

(b) ~~No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due, except that if claims for expenses of the last illness involve only claims filed under section 256B.15 for recovery of expenditures for alternative care for nonmedical assistance recipients under section 256B.0913, section 246.53 for costs of state hospital care and claims filed under section 256B.15, claims filed to recover expenditures for alternative care for nonmedical assistance recipients under section 256B.0913 shall have preference over claims filed under both sections 246.53 and other claims filed under section 256B.15, and. Claims filed under section 246.53 have preference over claims filed under section 256B.15 for recovery of amounts other than those for expenditures for alternative care for nonmedical assistance recipients under section 256B.0913.~~

[EFFECTIVE DATE.] This section is effective retroactively from July 1, 2003, for decedents dying on or after that date.

Sec. 14. [REFUNDS; NOTICES, AND IMMUNITY.]

(a) The commissioner of human services and any county agency that, after a recipient's death, has collected any sum (1) from the estate of a recipient of alternative case services, or (2) attributable to a life estate or joint tenancy interest in real estate that was continued after the death of the recipient, shall promptly refund the amount collected to the person or persons who paid the amount collected, in proportion to each person's contribution to the amount.

(b) If the commissioner determines a person entitled to a refund is dead, the commissioner shall pay the refund to the person's estate if it is open, or to their heirs or devisees as finally determined in any completed probate proceedings or under a final decree of descent. In all other cases, the refund shall be deemed to be abandoned property and the commissioner shall pay and deliver the refund to the commissioner of commerce. The commissioner of commerce shall administer and dispose of the refund in accordance with Minnesota Statutes, sections 345.42 through 345.60. The commissioner of human services shall not be liable to anyone with respect to the refund after paying or delivering the refund as provided for in this paragraph.

(c) Lien notices of record against life estate or joint tenancy interests filed on and after August 1, 2003, shall have no effect and shall not constitute record notice after the death of the person named in the lien or notice unless continued after that time by the terms of the instrument creating the interest, shall be disregarded by examiners of title, and shall not be carried forward to subsequent certificates of title.

(d) The commissioner of human services, county agencies, elected officials, and their employees are immune from all liability for actions taken or not taken in accordance with Laws 2003, First Special Session chapter 14, article 2, sections 47 to 52; article 12, sections 40 to 52 and 90; and sections 1 to 14 of this act.

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

Sec. 15. [APPROPRIATIONS.]

\$..... is appropriated from the general fund to the commissioner of human services for fiscal years 2004 and 2005 for the purposes of sections 1 to 14. \$..... is appropriated from the general fund to the commissioner of human services for fiscal years 2006 and 2007 for the purposes of sections 1 to 14.

Sec. 16. [REPEALER.]

Minnesota Statutes 2004, sections 256B.15, subdivision 1g; 514.991; 514.992; 514.993; 514.994; and 514.995, are repealed retroactively from July 1, 2003."

Delete the title and insert:

"A bill for an act relating to human services; modifying certain provisions regarding medical assistance liens; eliminating recovery efforts for alternative care services; appropriating money; amending Minnesota Statutes 2004, sections 256B.15, subdivisions 1, 1a, 1d, 1e, 1f, 1h, 1i, 1j, 2, 3, 4; 514.981, subdivision 6; 524.3-805; repealing Minnesota Statutes 2004, sections 256B.15, subdivision 1g; 514.991; 514.992; 514.993; 514.994; 514.995."

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Vickerman from the Committee on Agriculture, Veterans and Gaming, to which was referred

S.F. No. 296: A bill for an act relating to agriculture; providing milk producer payments to beginning milk producers; establishing a dairy modernization grant program; proposing coding for new law in Minnesota Statutes, chapter 41A.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [41A.10] [MILK PRODUCTION DEVELOPMENT PROGRAM.]

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.

(b) "Beginning milk producer" means:

(1) a natural person who is an adult and who:

(i) has not directly or indirectly owned or whose spouse has not directly or indirectly owned more than 20 lactating dairy cattle in the five years prior to June 30, 2005, or has rebuilt milk production capacity and suffered an uninsured loss in excess of \$100,000 that was due to a fire or other disaster;

(ii) has acquired at least five dairy cows after June 30, 2005;

(iii) is actively operating the farm where the dairy cows reside; and

(iv) has a total net worth, including assets and liabilities of the person's spouse and dependents, of less than \$400,000; or

(2) a family farm corporation, family farm partnership, family farm limited liability company, or family farm trust, as the terms are defined in section 500.24, subdivision 2, that has:

(i) not directly or indirectly owned more than 20 lactating dairy cattle in the five years prior to June 30, 2005, or has rebuilt milk production capacity and suffered an uninsured loss in excess of \$100,000 that was due to a fire or other disaster;

(ii) acquired at least five dairy cows after June 30, 2005;

(iii) at least one of the related shareholders or members is actively operating the farm where the dairy cows reside;

(iv) a total net worth, including assets and liabilities of all of the shareholders or members, of less than \$400,000; and

(v) not changed its structure with continued control by the same individuals in order to become eligible to receive payments under this section.

(c) "Commissioner" means the commissioner of agriculture.

Subd. 2. [MILK PRODUCER PAYMENTS.] (a) The commissioner shall make cash payments to a beginning milk producer located in this state. The amount of the payment for each beginning milk producer's annual production is \$1 per 100 pounds of milk for the first 1,000,000 pounds produced each year on the dairy farm for the first five years from the start of milk production.

(b) The total payments to an individual, married couple, or entity under paragraph (a) in any fiscal year may not exceed \$10,000. The total payments for two or more beginning milk producers operating on a single premise under paragraph (a) in any fiscal year may not exceed \$20,000.

(c) By the last day of October, January, April, and July, each dairy producer shall file a claim for payment for milk production during the preceding three calendar months. A producer filing a claim under this subdivision shall include a statement of the producer's total milk production in this state during the quarter covered by the claim. The volume of milk production on the claim and the beginning dairy producer's eligibility must be certified by a farm management program instructor approved by the commissioner.

(d) Payments must be made by November 15, February 15, May 15, and August 15. If the total amount for which all beginning milk producers are eligible in a quarter exceeds the amount available for payments, the commissioner shall make payments on a pro rata basis.

Subd. 3. [FARM MANAGEMENT PROGRAM.] As a condition of receiving payments under subdivision 2, a beginning milk producer must agree to participate in a farm management program approved by the commissioner."

Amend the title as follows:

Page 1, line 3, delete everything after the semicolon

Page 1, line 4, delete everything before "proposing"

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Senator Vickerman from the Committee on Agriculture, Veterans and Gaming, to which was referred

S.F. No. 550: A bill for an act relating to agriculture; extending and codifying the expiration date of the farmer-lender mediation program; proposing coding for new law in Minnesota Statutes, chapter 583; repealing Laws 1986, chapter 398, article 1, section 18, as amended.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Higgins from the Committee on State and Local Government Operations, to which was referred

S.F. No. 267: A bill for an act relating to counties; providing for fees and standards for the recording of certain documents; amending Minnesota Statutes 2004, sections 357.18; 386.30; 507.093; 508.82; 508A.82; 515B.1-116.

Reports the same back with the recommendation that the bill be re-referred to the Committee on Finance without recommendation. Report adopted.

Senator Higgins from the Committee on State and Local Government Operations, to which was referred

S.F. No. 186: A bill for an act relating to economic development; providing a bidding exception for certain federally subsidized transit facilities; amending Minnesota Statutes 2004, section 469.015, subdivision 4.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Senator Higgins from the Committee on State and Local Government Operations, to which was referred

S.F. No. 551: A bill for an act relating to local government; increasing the amount a county or city may appropriate for the prevention of cruelty to animals; providing that a property tax levy to fund the appropriation is exempt from levy limits; amending Minnesota Statutes 2004, sections 275.70, subdivision 5; 343.11.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Taxes. Report adopted.

Senator Higgins from the Committee on State and Local Government Operations, to which was referred

S.F. No. 262: A bill for an act relating to local government; making technical changes to filing and recording laws; amending Minnesota Statutes 2004, sections 41.65, subdivision 3; 49.05, subdivision 2; 49.215, subdivision 3; 52.20, subdivisions 2, 3; 60B.16, subdivision 1; 60B.21, subdivision 1; 60B.25; 60B.52, subdivision 2; 60B.53, subdivision 2; 60B.55, subdivision 2; 66A.21, subdivision 2; 88.14, subdivision 3; 88.41; 88.49, subdivisions 2, 3, 5; 88.491, subdivision 2; 92.17; 93.52, subdivision 2; 93.55, subdivisions 1, 1a, 2, 5; 93.551; 94.19; 103I.341, subdivisions 1, 4; 117.065; 164.06, subdivision 2; 164.07, subdivision 11; 222.29; 238.25, subdivision 10; 273.165, subdivision 1; 281.322; 281.328, subdivision 1; 284.07; 284.08; 284.11; 284.18; 306.02, subdivision 1; 306.24; 307.06; 307.07; 315.01, subdivisions 3, 4; 315.17, subdivision 3; 315.19; 315.20, subdivisions 2, 3; 315.32; 315.365, subdivision 2; 315.44; 316.09; 317A.021, subdivision 4; 317A.051, subdivision 2; 318.02, subdivision 3; 322.02; 322.25, subdivision 4; 322A.86; 327A.04, subdivision 3; 327C.095, subdivisions 8, 11; 344.06; 344.08; 375.14; 381.12, subdivision 1; 382.08; 382.10; 384.02; 384.08; 385.02, subdivision 1; 386.03; 386.04; 386.05; 386.13; 386.16; 386.19; 386.20, subdivisions 1, 3; 386.23, subdivisions 1, 2; 386.26, subdivision 3; 386.29; 386.31; 386.32; 386.36; 386.37; 386.45; 387.01; 387.33, subdivision 2; 388.01; 388.10; 389.011, subdivisions 1, 3; 390.05; 394.27, subdivision 8; 394.301, subdivision 4; 394.33, subdivision 1; 394.35; 395.18; 395.22; 398.19; 410.11; 412.851; 429.061, subdivision 2; 444.17; 447.31, subdivision 4; 462.359, subdivision 2; 462.3595, subdivision 4; 462.36, subdivision 1; 462A.31, subdivision 7; 463.15, subdivision 4; 465.19; 471.928; 485.01; 485.03; 485.05; 489.03; 507.24, subdivision 1; 508.35; 508.37; 508.38; 519.091, subdivision 2; 541.023, subdivisions 2, 2a, 4, 6; 548.09, subdivision 1; 548.25; 550.31; 550.32; 559.17, subdivisions 2, 3; 559.209, subdivision 2; 559.21, subdivisions 3, 4; 559.23; 570.061, subdivision 2; 570.11; 570.14; 576.01, subdivision 2; 577.02; 577.10; 580.032, subdivisions 1, 3; 580.09; 580.15; 580.17; 580.23, subdivision 4; 580.24; 580.29; 600.21; repealing Minnesota Statutes 2004, sections 386.183; 386.34; 386.53; 580.16.

Reports the same back with the recommendation that the bill be amended as follows:

Page 51, line 17, before "The" insert "In a county in which the county recorder performs abstract services,"

Page 51, line 18, reinstate the stricken "shall" and delete "may"

Pages 80 to 82, delete section 136

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 40, delete "subdivisions 3," and insert "subdivision"

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

Senator Wiger from the Committee on Elections, to which was referred

S.F. No. 370: A bill for an act relating to elections; increasing news media access to polling places; amending Minnesota Statutes 2004, section 204C.06, subdivision 8.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, delete section 1 and insert:

"Section 1. Minnesota Statutes 2004, section 204C.06, subdivision 8, is amended to read:

Subd. 8. [ACCESS FOR NEWS MEDIA.] ~~The county auditor or municipal or school district clerk, or their designee, may, by written authorization, permit~~ A news media representative to ~~representative may enter a polling places for up to 15 minutes place during voting hours to observe the voting process. A media representative must obtain prior authorization and present photo identification to the head election judge upon arrival at the polling place and, along with either a recognized media credential or written acknowledgment from a local election official of the media representative's credentials. A media representative must not otherwise:~~

- (1) approach within six feet of ~~an election judge or~~ a voter;
- (2) converse with a voter while in the polling place;
- (3) make a list of persons voting or not voting; or
- (4) ~~interview a voter within the polling place~~ interfere with the voting process."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Wiger from the Committee on Elections, to which was referred

S.F. No. 518: A bill for an act relating to Hennepin County; eliminating duplicate campaign finance filings; making other technical changes to the county campaign finance provisions; amending Minnesota Statutes 2004, sections 383B.042, subdivisions 13, 14, 16; 383B.046; 383B.047; 383B.048; 383B.049; 383B.05; 383B.053, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 18, before the period, insert "; and not to influence the outcome of any other election"

Page 2, line 3, before the period, insert "; and not for the purpose of influencing the outcome of any other election"

Page 2, line 21, after the period, insert "A political committee, political fund, or principal campaign committee that is registered with the Campaign Finance and Public Disclosure Board under section 10A.14 need not register under this section."

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

Senator Wiger from the Committee on Elections, to which was referred

S.F. No. 716: A bill for an act relating to elections; changing certain ballot certification provisions; amending Minnesota Statutes 2004, section 204B.10, subdivision 6.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Senator Wiger from the Committee on Elections, to which was referred

S.F. No. 717: A bill for an act relating to elections; eliminating a requirement in party primary elections; amending Minnesota Statutes 2004, section 204D.10, subdivision 1; repealing Minnesota Statutes 2004, section 204D.10, subdivision 2.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Senator Betzold from the Committee on Judiciary, to which was referred

S.F. No. 391: A bill for an act relating to real property; providing for certain defeasible estates; modifying residential purchase agreement cancellations; amending the foreclosure advice notice; amending Minnesota Statutes 2004, sections 500.20, subdivision 2a; 559.217, subdivisions 1, 3, 4, 5, 6; 580.041, by adding subdivisions.

Reports the same back with the recommendation that the bill be amended as follows:

Pages 3 to 9, delete sections 2 to 10 and insert:

"Sec. 2. Minnesota Statutes 2004, section 513.56, subdivision 3, is amended to read:

Subd. 3. [INSPECTIONS.] (a) Except as provided in paragraph (b), a seller is not required to disclose information relating to the ~~physical condition of the~~ real property if a written report that discloses the information has been prepared by a qualified third party and provided to the prospective buyer. For purposes of this paragraph, "qualified third party" means a federal, state, or local governmental agency, or any person whom the seller, or prospective buyer, reasonably believes has the expertise necessary to meet the industry standards of practice for the type of inspection or investigation that has been conducted by the third party in order to prepare the written report.

(b) A seller shall disclose to the prospective buyer material facts known by the seller that contradict any information included in a written report under paragraph (a) if a copy of the report is provided to the seller.

Sec. 3. Minnesota Statutes 2004, section 513.57, subdivision 2, is amended to read:

Subd. 2. [LIABILITY.] A seller who fails to make a disclosure as required by sections 513.52 to 513.60 and was aware of the ~~condition of~~ material facts pertaining to the real property is liable to the prospective buyer. A person injured by a violation of this section may bring a civil action and recover damages and receive other equitable relief as determined by the court. An action under this subdivision must be commenced within two years after the date on which the prospective buyer closed the purchase or transfer of the real property.

Sec. 4. Minnesota Statutes 2004, section 559.217, is amended to read:

559.217 [DECLARATORY CANCELLATION OF RESIDENTIAL PURCHASE AGREEMENT.]

Subdivision 1. [DEFINITIONS.] (a) For purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Purchase agreement" means an earnest money contract, purchase agreement, or exercised option ~~that could be canceled under section 559.21, subdivision 4, paragraph (a) whether or not the instrument is subject to section 559.21.~~

(c) "Residential real property" means real property, including vacant land, occupied by, or intended to be occupied by, in the aggregate, one to four families as their residence.

(d) "Suspend" means to temporarily or permanently restrain or enjoin a cancellation proceeding under subdivision 3 or 4 pursuant to the provisions of section 559.211.

Subd. 2. [USE OF THIS SECTION.] Either the purchaser or the seller may cancel a purchase agreement for residential real property under this section. If either a seller or purchaser initiates a cancellation proceeding under this section and before completion of the proceeding the other party to the purchase agreement initiates a cancellation proceeding under this section, whether under subdivision 3 or 4, the purchase agreement is deemed canceled as of the date the second cancellation notice is served upon the other party to the purchase agreement under this section. Either party ~~can~~ may later pursue legal remedies at law to recover the earnest money. A court shall make a determination of which party is entitled to the earnest money without regard to which party first initiated the cancellation proceeding and may consider the terms of the canceled purchase agreement in making its determination.

Subd. 3. [CANCELLATION WITH RIGHT TO CURE.] (a) If a default occurs or an unfulfilled condition exists after the date specified for fulfillment in the terms of a purchase agreement for the conveyance of residential real property, which does not by its terms cancel the purchase agreement, the purchaser or the seller may initiate a cancellation by serving upon the other party to the purchase agreement and any third party that is holding earnest money under the purchase agreement a notice:

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

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

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

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

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

Subd. 4. [DECLARATORY CANCELLATION.] (a) ~~If a default occurs or an unfulfilled condition exists after the date specified for fulfillment in the terms of a purchase agreement for the conveyance of residential real property, which by the terms of the purchase agreement cancels the purchase agreement, either the purchaser or the seller may confirm the cancellation by serving upon the other party to the purchase agreement and any third party that is holding earnest money under the purchase agreement a notice:~~

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

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

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

~~(b) The notice must be served in the manner provided in section 559.21, subdivision 4, paragraphs (a) and (b).~~

~~(c) The cancellation of the purchase agreement is complete, unless, within 15 days after the~~

service of the notice upon the other party to the purchase agreement, the party upon whom the notice was served secures from a court an order suspending the cancellation.

Subd. 5. [FORM OF NOTICE OF CANCELLATION.] (a) For purposes of subdivision 3, the term "notice" means a writing stating the information required in subdivision 3, paragraph (a), stating the name, address, and telephone number of that party serving the notice or of an attorney authorized by such party to serve the notice, and including the following information in 12-point or larger underlined uppercase type, or 8-point type if published, ~~or in large legible handwritten letters:~~

"THIS NOTICE IS TO INFORM YOU THAT BY THIS NOTICE THE (SELLER) (PURCHASER) (STRIKE ONE) HAS BEGUN PROCEEDINGS UNDER MINNESOTA STATUTES, SECTION 559.217, TO CANCEL YOUR PURCHASE AGREEMENT FOR THE (PURCHASE) (SALE) (STRIKE ONE) OF THE ABOVE PROPERTY FOR THE REASONS SPECIFIED IN THIS NOTICE. THE PURCHASE AGREEMENT WILL BE CANCELED ... DAYS AFTER (SERVICE OF THIS NOTICE UPON YOU) (THE FIRST DAY OF PUBLICATION OF THIS NOTICE) (STRIKE ONE) UNLESS BEFORE THEN:

(A) YOU HAVE FULLY COMPLIED WITH ALL OF YOUR OBLIGATIONS UNDER THE PURCHASE AGREEMENT THAT WERE REQUIRED TO BE PERFORMED AS OF THE DATE OF SERVICE OF THIS NOTICE, INCLUDING, WITHOUT LIMITATION, THE ITEMS OF DEFAULT SPECIFIED IN THIS NOTICE; ~~OR AND THE UNFULFILLED CONDITIONS SPECIFIED IN THIS NOTICE ARE COMPLETED, INCLUDING, IF APPLICABLE, COMPLETION OF THE PURCHASE OR SALE OF THE RESIDENTIAL REAL PROPERTY ACCORDING TO THE TERMS OF THE PURCHASE AGREEMENT; OR~~

(B) YOU SECURE FROM A DISTRICT COURT AN ORDER THAT THE TERMINATION OF THE PURCHASE AGREEMENT BE SUSPENDED UNTIL YOUR CLAIMS OR DEFENSES ARE FINALLY DISPOSED OF BY TRIAL, HEARING, OR SETTLEMENT. YOUR ACTION MUST SPECIFICALLY STATE THOSE FACTS AND GROUNDS THAT DEMONSTRATE YOUR CLAIMS OR DEFENSES.

IF YOU DO NOT DO ONE OR THE OTHER OF THE ABOVE THINGS WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE, YOUR PURCHASE AGREEMENT WILL BE CANCELED AT THE END OF THE PERIOD (AND YOU WILL LOSE ALL EARNEST MONEY YOU HAVE PAID ON THE PURCHASE AGREEMENT) (STRIKE IF NOT APPLICABLE); AND YOU MAY LOSE YOUR RIGHT TO ASSERT ANY CLAIMS OR DEFENSES THAT YOU MIGHT HAVE.

HOWEVER, IF WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE YOU SERVE YOUR OWN NOTICE UNDER MINNESOTA STATUTES, SECTION 559.217, YOUR PURCHASE AGREEMENT WILL BE IMMEDIATELY CANCELED, BUT YOUR ENTITLEMENT TO EARNEST MONEY MUST BE DETERMINED BY A COURT OR DETERMINED BY ARBITRATION IF AGREED TO BY THE PARTIES.

IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, CONTACT AN ATTORNEY IMMEDIATELY."

(b) For purposes of subdivision 4, the term "notice" means a writing stating the information required in subdivision 4, paragraph (a), stating the name, address, and telephone number of the party serving the notice or of an attorney authorized by ~~that~~ such party to serve the notice, and including the following information in 12-point or larger underlined uppercase type, or 8-point type if published, ~~or in large legible handwritten letters:~~

"THIS NOTICE IS PURSUANT TO MINNESOTA STATUTES, SECTION 559.217, TO INFORM YOU THAT YOUR PURCHASE AGREEMENT FOR THE (PURCHASE) (SALE) (STRIKE ONE) OF THE ABOVE PROPERTY HAS BEEN CANCELED FOR THE REASONS SPECIFIED IN THIS NOTICE. THE CANCELLATION WILL BE CONFIRMED ... DAYS AFTER (SERVICE OF THIS NOTICE UPON YOU) (THE FIRST DAY OF PUBLICATION OF THIS NOTICE) (STRIKE ONE) UNLESS BEFORE THEN YOU SECURE FROM A

DISTRICT COURT AN ORDER THAT THE CONFIRMATION OF CANCELLATION OF THE PURCHASE AGREEMENT BE SUSPENDED UNTIL YOUR CLAIMS OR DEFENSES ARE FINALLY DISPOSED OF BY TRIAL, HEARING, OR SETTLEMENT. YOUR ACTION MUST SPECIFICALLY STATE THOSE FACTS AND GROUNDS THAT DEMONSTRATE YOUR CLAIMS OR DEFENSES.

IF YOU DO NOT OBTAIN SUCH A COURT ORDER WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE, THE CONFIRMATION OF CANCELLATION OF YOUR PURCHASE AGREEMENT WILL BE FINAL AT THE END OF THE PERIOD (AND YOU WILL LOSE ALL EARNEST MONEY YOU HAVE PAID ON THE PURCHASE AGREEMENT) (STRIKE IF NOT APPLICABLE); AND YOU MAY LOSE YOUR RIGHT TO ASSERT ANY CLAIMS OR DEFENSES THAT YOU MIGHT HAVE.

HOWEVER, IF WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE YOU SERVE YOUR OWN NOTICE UNDER MINNESOTA STATUTES, SECTION 559.217, YOUR PURCHASE AGREEMENT WILL BE IMMEDIATELY CANCELED, BUT YOUR ENTITLEMENT TO EARNEST MONEY MUST BE DETERMINED BY A COURT OR DETERMINED BY ARBITRATION IF AGREED TO BY THE PARTIES.

IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, CONTACT AN ATTORNEY IMMEDIATELY."

Subd. 6. [SUSPENSION OF CANCELLATION, ATTORNEY FEES, COURT FEES, AND COSTS OF SERVICE.] ~~If the party~~ A seller or a purchaser upon whom the notice is served ~~commences~~ may commence a proceeding under section 559.211 to obtain a court order to suspend the cancellation of a purchase agreement under this section, and in the proceeding the court shall may award court filing fees, attorney fees, and costs of service actually expended to the prevailing party in an amount not to exceed \$3,000.

Subd. 7. [AFFIDAVIT OF CANCELLATION.] (a) After a cancellation under subdivision 3 or a confirmation of cancellation under subdivision 4, the purchase agreement is void and of no further force or effect, and, except as provided in subdivision 2, any earnest money held under the purchase agreement must be distributed to, and become the sole property of, the party completing the cancellation of the purchase agreement.

(b) When a cancellation under this section has been completed, the party who served the notice, or that party's attorney, may execute an affidavit stating that the party caused a notice of cancellation to be served upon the other party, that the other party neither complied with the actions required in the notice, if applicable, nor obtained a court order suspending the cancellation, and that the property is residential real property.

(c) A copy of the affidavit of cancellation, when attached to a copy of the notice, is prima facie evidence of the facts therein stated.

(d) Except as provided in subdivision 2, the affidavit of cancellation, when delivered to a ~~person~~ third party holding earnest money under the purchase agreement, is a sufficient basis for that person to release the earnest money to the party initiating and completing the cancellation.

(e) If either a seller or purchaser commences a cancellation proceeding under this section and before completion of the first proceeding the other party initiates a cancellation proceeding under this section, either party or that party's attorney may execute an affidavit stating that both parties caused the notice of cancellation to be served upon the other party and further specifying the date the second notice of cancellation was served upon the other party. A copy of the affidavit of cancellation, when attached to copies of both notices of cancellation, is prima facie evidence of the cancellation of the purchase agreement and of the effective date of the cancellation of the purchase agreement.

Subd. 8. [ATTORNEY AS AGENT FOR SERVICE.] Any attorney authorized to serve the notice of cancellation by a party initiating a cancellation under this section is designated as the attorney who may receive service as agent for the party initiating the cancellation of all summons,

complaints, orders, and motions made in connection with an action by the party upon whom the notice is served to restrain the cancellation. Service in the action may be made upon the party initiating the cancellation by mailing a copy of the process to such party or to such party's attorney, by first class mail, postage prepaid, to the address stated in the notice.

[EFFECTIVE DATE.] This section is effective August 1, 2005, and applies to purchase agreements entered into on or after that date.

Sec. 5. Minnesota Statutes 2004, section 580.041, is amended by adding a subdivision to read:

Subd. 1a. [APPLICABILITY.] This section applies to foreclosure of mortgages under this chapter on property consisting of one to four family dwelling units, one of which the owner occupies as the owner's principal place of residency on the date of service of the notice of sale on the owner.

Sec. 6. Minnesota Statutes 2004, section 580.041, is amended by adding a subdivision to read:

Subd. 3. [AFFIDAVIT.] Any person may establish compliance with or inapplicability of this section by recording, with the county recorder or registrar of titles, an affidavit by a person having knowledge of the facts, stating that the notice required by this section has been delivered in compliance with this section or that this section is not applicable because the property described in the notice of foreclosure did not consist of one to four family dwelling units, one of which was occupied by the owner as the owner's principal place of residency. The affidavit and a certified copy of a recorded affidavit shall be prima facie evidence of the facts stated in the affidavit. The affidavit may be recorded regarding any foreclosure sale, including foreclosure sales which occurred prior to the effective date of this section, and may be recorded separately or as part of the record of a foreclosure.

Sec. 7. Minnesota Statutes 2004, section 580.041, is amended by adding a subdivision to read:

Subd. 4. [VALIDATION OF FORECLOSURE SALES.] No mortgage foreclosure sale under this chapter shall be invalid because of failure to comply with this section unless an action to invalidate the sale is commenced and a notice of lis pendens is filed with the county recorder or registrar of titles within one year after the last day of the redemption period of the mortgagor, the mortgagor's personal representatives, or assigns. This subdivision shall not affect any action or proceeding pending on August 1, 2005, or which is commenced before February 1, 2006, in any court of this state, provided a notice of lis pendens of the action is filed with the county recorder or registrar of titles before February 1, 2006.

Sec. 8. [REVISOR'S INSTRUCTION.]

The revisor of statutes shall renumber Minnesota Statutes, section 580.041, subdivision 1, as subdivision 1b."

Delete the title and insert:

"A bill for an act relating to real property; providing for certain defeasible estates; modifying residential purchase agreement cancellations; amending the foreclosure advice notice; amending Minnesota Statutes 2004, sections 500.20, subdivision 2a; 513.56, subdivision 3; 513.57, subdivision 2; 559.217; 580.041, by adding subdivisions."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Betzold from the Committee on Judiciary, to which was referred

S.F. No. 379: A bill for an act relating to courts; authorizing retired court commissioners to be appointed to perform judicial duties in the district court; amending Minnesota Statutes 2004, sections 2.724, subdivision 3; 489.01, by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [RAMSEY COUNTY COURT COMMISSIONER.]

The chief justice of the Supreme Court may assign a retired court commissioner to act in Ramsey County as a commissioner of the district court. The commissioner may perform duties assigned by the chief judge of the judicial district with the powers provided by Minnesota Statutes, section 489.02. This section expires December 31, 2025."

Delete the title and insert:

"A bill for an act relating to courts; authorizing a retired court commissioner to be appointed to perform judicial duties in Ramsey County."

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

Senator Betzold from the Committee on Judiciary, to which was referred

S.F. No. 288: A bill for an act relating to creditors remedies; exempting certain jewelry from attachment, garnishment, or sale; amending Minnesota Statutes 2004, section 550.37, subdivision 4.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, lines 15 to 17, delete the new language and insert:

"(c) the debtor's aggregate interest, not exceeding \$1,225 in value, in wedding rings or other religious or culturally recognized wedding symbols in the debtor's possession"

Amend the title as follows:

Page 1, line 2, delete "creditors" and insert "creditors'"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Betzold from the Committee on Judiciary, to which was referred

S.F. No. 392: A bill for an act relating to probate; changing and clarifying certain venue, trustee powers, and omitted beneficiary provisions; amending Minnesota Statutes 2004, sections 501B.17; 501B.705, subdivisions 2, 3, 4, 5; 524.2-302.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Senator Betzold from the Committee on Judiciary, to which was referred

S.F. No. 393: A bill for an act relating to real property; amending the Minnesota Common Interest Ownership Act; amending Minnesota Statutes 2004, sections 515B.1-102; 515B.1-103; 515B.1-106; 515B.1-107; 515B.1-116; 515B.2-101; 515B.2-102; 515B.2-104; 515B.2-106; 515B.2-108; 515B.2-110; 515B.2-111; 515B.2-112; 515B.2-113; 515B.2-118; 515B.2-119; 515B.2-121; 515B.2-123; 515B.2-124; 515B.3-101; 515B.3-102; 515B.3-103; 515B.3-105; 515B.3-106; 515B.3-110; 515B.3-112; 515B.3-113; 515B.3-114; 515B.3-115; 515B.3-116; 515B.3-117; 515B.3-120; 515B.4-101; 515B.4-102; 515B.4-105; 515B.4-106; 515B.4-107; 515B.4-109; 515B.4-111; 515B.4-115.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 515B.1-102, is amended to read:

515B.1-102 [APPLICABILITY.]

(a) Except as provided in this section, this chapter, and not chapters 515 and 515A, applies to all common interest communities created within this state on and after June 1, 1994.

(b) The applicability of this chapter to common interest communities created prior to June 1, 1994, shall be as follows:

(1) This chapter shall apply to condominiums created under chapter 515A with respect to events and circumstances occurring on and after June 1, 1994; provided (i) that this chapter shall not invalidate the declarations, bylaws or condominium plats of those condominiums, and (ii) that chapter 515A, and not this chapter, shall govern all rights and obligations of a declarant of a condominium created under chapter 515A, and the rights and claims of unit owners against that declarant.

(2) The following sections in this chapter apply to condominiums created under chapter 515: 515B.1-104 (Variation by Agreement); 515B.1-105 (Separate Titles and Taxation); 515B.1-106 (Applicability of Local Ordinances, Regulations, and Building Codes); 515B.1-107 (Eminent Domain); 515B.1-108 (Supplemental General Principles of Law Applicable); 515B.1-109 (Construction Against Implicit Repeal); 515B.1-112 (Unconscionable Agreement or Term of Contract); 515B.1-113 (Obligation of Good Faith); 515B.1-114 (Remedies to be Liberally Administered); 515B.1-115 (Notice); 515B.1-116 (Recording); 515B.2-103 (Construction and Validity of Declaration and Bylaws); 515B.2-104 (Description of Units); 515B.2-108(d) (Allocation of Interests); 515B.2-109(c) (Common Elements and Limited Common Elements); 515B.2-112 (Subdivision or Conversion of Units); 515B.2-113 (Alteration of Units); 515B.2-114 (Relocation of Boundaries Between Adjoining Units); 515B.2-115 (Minor Variations in Boundaries); 515B.2-118 (Amendment of Declaration); 515B.2-119 (Termination of Common Interest Community); 515B.3-102 (Powers of Unit Owners' Association); 515B.3-103(a), (b), and (g) (Board; Directors and Officers; Period of Declarant Control); 515B.3-107 (Upkeep of Common Interest Community); 515B.3-108 (Meetings); 515B.3-109 (Quorums); 515B.3-110 (Voting; Proxies); 515B.3-111 (Tort and Contract Liability); 515B.3-112 (Conveyance or Encumbrance of Common Elements); 515B.3-113 (Insurance); 515B.3-114 (Reserves; Surplus Funds); 515B.3-115 (c), (e), (f), (g), (h), and (i) (Assessments for Common Expenses); 515B.3-116 (Lien for Assessments); 515B.3-117 (Other Liens); 515B.3-118 (Association Records); 515B.3-119 (Association as Trustee); 515B.3-121 (Accounting Controls); 515B.4-107 (Resale of Units); 515B.4-108 (Purchaser's Right to Cancel Resale); and 515B.4-116 (Rights of Action; Attorney's Fees). Section 515B.1-103 (Definitions) shall apply to the extent necessary in construing any of the sections referenced in this section. Sections 515B.1-105, 515B.1-106, 515B.1-107, 515B.1-116, 515B.2-103, 515B.2-104, 515B.2-118, 515B.3-102, 515B.3-110, 515B.3-111, 515B.3-113, 515B.3-116, 515B.3-117, 515B.3-118, 515B.3-121, 515B.4-107, 515B.4-108, and 515B.4-116 apply only with respect to events and circumstances occurring on and after June 1, 1994. All other sections referenced in this section apply only with respect to events and circumstances occurring after July 31, 1999. A section referenced in this section does not invalidate the declarations, bylaws or condominium plats of condominiums created before August 1, 1999. But all sections referenced in this section prevail over the declarations, bylaws, CIC plats, rules and regulations under them, of condominiums created before August 1, 1999, except to the extent that this chapter defers to the declarations, bylaws, CIC plats, or rules and regulations issued under them.

(3) This chapter shall not apply to cooperatives and planned communities created prior to June 1, 1994; except by election pursuant to subsection (d), and except that sections 515B.1-116, subsections (a), (c), (d), (e), (f), and (h), 515B.4-107, and 515B.4-108, apply to all planned communities and cooperatives regardless of when they are created, unless they are exempt under subsection (e).

(c) This chapter shall not invalidate any amendment to the declaration, bylaws or condominium plat of any condominium created under chapter 515 or 515A if the amendment was recorded before June 1, 1994. Any amendment recorded on or after June 1, 1994, shall be adopted in conformity with the procedures and requirements specified by those instruments and by this

chapter. If the amendment grants to any person any rights, powers or privileges permitted by this chapter, all correlative obligations, liabilities and restrictions contained in this chapter shall also apply to that person.

(d) Any condominium created under chapter 515, any planned community or cooperative which would be exempt from this chapter under subsection (e), or any planned community or cooperative created prior to June 1, 1994, may elect to be subject to this chapter, as follows:

(1) The election shall be accomplished by recording a declaration or amended declaration, and a new or amended CIC plat where required, and by approving bylaws or amended bylaws, which conform to the requirements of this chapter, and which, in the case of amendments, are adopted in conformity with the procedures and requirements specified by the existing declaration and bylaws of the common interest community, and by any applicable statutes.

(2) In a condominium, the preexisting condominium plat shall be the CIC plat and an amended CIC plat shall be required only if the amended declaration or bylaws contain provisions inconsistent with the preexisting condominium plat. The condominium's CIC number shall be the apartment ownership number or condominium number originally assigned to it by the recording officer. In a cooperative in which the unit owners' interests are characterized as real estate, a CIC plat shall be required. In a planned community, the preexisting plat recorded pursuant to chapter 505, 508, or 508A, or the part of the plat upon which the common interest community is located, shall be the CIC plat.

(3) The amendment shall ~~conform to the requirements of~~ comply with section 515B.2-118~~(d)~~(a)(3).

(4) Except as permitted by paragraph (3), no declarant, affiliate of declarant, association, master association nor unit owner may acquire, increase, waive, reduce or revoke any previously existing warranty rights or causes of action that one of said persons has against any other of said persons by reason of exercising the right of election under this subsection.

(5) A common interest community which elects to be subject to this chapter may, as a part of the election process, change its form of ownership by complying with ~~the requirements of~~ section 515B.2-123.

(e) Except as otherwise provided in this subsection, this chapter shall not apply, except by election pursuant to subsection (d), to the following:

(1) ~~a planned community or cooperative which consists of 12 or fewer~~ two units subject to the same declaration, which utilizes a common interest community plat complying with section 515B.2-110(d)(1) and (2), which is not subject to any rights to subdivide or convert units or to add additional real estate, and which will is not be subject to a master association;

(2) a common interest community where the units consist solely of separate parcels of real estate designed or utilized for detached single family dwellings or agricultural purposes, and where the association or a master association has no obligation to maintain any building containing a dwelling or any agricultural building;

(3) a cooperative where, at the time of creation of the cooperative, the unit owners' interests in the dwellings as described in the declaration consist solely of proprietary leases having an unexpired term of fewer than 20 years, including renewal options;

(4) planned communities utilizing a common interest community plat complying with section 515B.2-110(d)(1) and (2) and cooperatives, which are limited by the declaration to nonresidential use; or

(5) real estate subject only to an instrument or instruments filed primarily for the purpose of creating or modifying rights with respect to access, utilities, parking, ditches, drainage, or irrigation.

(f) Section 515B.1-106 shall apply to all common interest communities.

Sec. 2. Minnesota Statutes 2004, section 515B.1-103, is amended to read:

515B.1-103 [DEFINITIONS.]

In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in this chapter:

(1) "Additional real estate" means real estate that may be added to a flexible common interest community.

(2) "Affiliate of a declarant" means any person who controls, is controlled by, or is under common control with a declarant.

(A) A person "controls" a declarant if the person (i) is a general partner, officer, director, or employer of the declarant, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the declarant, (iii) controls in any manner the election of a majority of the directors of the declarant, or (iv) has contributed more than 20 percent of the capital of the declarant.

(B) A person "is controlled by" a declarant if the declarant (i) is a general partner, officer, director, or employer of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the person, (iii) controls in any manner the election of a majority of the directors of the person, or (iv) has contributed more than 20 percent of the capital of the person.

(C) Control does not exist if the powers described in this subsection are held solely as a security interest and have not been exercised.

(3) "Allocated interests" means the following interests allocated to each unit: (i) in a condominium, the undivided interest in the common elements, the common expense liability, and votes in the association; (ii) in a cooperative, the common expense liability and the ownership interest and votes in the association; and (iii) in a planned community, the common expense liability and votes in the association.

(4) "Association" means the unit owners' association organized under section 515B.3-101.

(5) "Board" means the body, regardless of name, designated in the articles of incorporation, bylaws or declaration to act on behalf of the association, or on behalf of a master association when so identified.

(6) "CIC plat" means a common interest community plat described in section 515B.2-110.

(7) "Common elements" means all portions of the common interest community other than the units.

(8) "Common expenses" means expenditures made or liabilities incurred by or on behalf of the association, or master association when so identified, together with any allocations to reserves.

(9) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to section 515B.2-108.

(10) "Common interest community" or "CIC" means contiguous or noncontiguous real estate within Minnesota that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for (i) real estate taxes levied against; (ii) insurance premiums payable with respect to; (iii) maintenance of; or (iv) construction, maintenance, repair or replacement of improvements located on, one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies. Real estate which satisfies the definition of a common interest community is a common interest community whether

or not it is subject to this chapter. Real estate subject to a master association, regardless of when the master association was formed, shall not collectively constitute a separate common interest community unless so stated in the master declaration recorded against the real estate pursuant to section 515B.2-121, subsection (f)(1).

(11) "Condominium" means a common interest community in which (i) portions of the real estate are designated as units, (ii) the remainder of the real estate is designated for common ownership solely by the owners of the units, and (iii) undivided interests in the common elements are vested in the unit owners.

(12) "Conversion property" means real estate on which is located a building that at any time within two years before creation of the common interest community was occupied as a residence for residential use wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.

(13) "Cooperative" means a common interest community in which the real estate is owned by an association, each of whose members is entitled by virtue of the member's ownership interest in the association to a proprietary lease.

(14) "Dealer" means a person in the business of selling units for the person's own account.

(15) "Declarant" means:

(i) if the common interest community has been created, (A) any person who has executed a declaration, or an amendment to a declaration to add additional real estate, except secured parties, persons whose interests in the real estate will not be transferred to unit owners, or, in the case of a leasehold common interest community, a lessor who possesses no special declarant rights and who is not an affiliate of a declarant who possesses special declarant rights, or (B) any person who reserves, or succeeds under section 515B.3-104 to any special declarant rights; or

(ii) any person or persons acting in concert who have offered prior to creation of the common interest community to transfer their interest in a unit to be created and not previously transferred.

(16) "Declaration" means any instrument, however denominated, ~~including any amendment to the instrument,~~ that creates a common interest community.

(17) "Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in the common interest community, but the term does not include the transfer or release of a security interest.

(18) "Flexible common interest community" means a common interest community to which additional real estate may be added.

(19) "Leasehold common interest community" means a common interest community in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the common interest community or reduce its size.

(20) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of section 515B.2-102(d) or (f) for the exclusive use of one or more but fewer than all of the units.

(21) "Master association" means an entity created on or after June 1, 1994, that directly or indirectly exercises any of the powers set forth in section 515B.3-102 on behalf of one or more members described in section 515B.2-121(b), (i), (ii) or (iii), whether or not it also exercises those powers on behalf of one or more property owners' associations described in section 515B.2-121(b)(iv). A person (i) hired by an association to perform maintenance, repair, accounting, bookkeeping or management services, or (ii) granted authority under an instrument recorded primarily for the purpose of creating rights or obligations with respect to utilities, access, drainage, or recreational amenities, is not, solely by reason of that relationship, a master association.

(22) "Master declaration" means a written instrument, however named, (i) recorded on or after June 1, 1994, against property subject to powers exercised by a master association and (ii) ~~satisfying the requirements of~~ complying with section 515B.2-121, subsection (f)(1).

(23) "Period of declarant control" means the time period provided for in section 515B.3-103(c) during which the declarant may appoint and remove officers and directors of the association.

(24) "Person" means an individual, corporation, limited liability company, partnership, trustee under a trust, personal representative, guardian, conservator, government, governmental subdivision or agency, or other legal or commercial entity capable of holding title to real estate.

(25) "Planned community" means a common interest community that is not a condominium or a cooperative. A condominium or cooperative may be a part of a planned community.

(26) "Proprietary lease" means an agreement with a cooperative association whereby a member of the association is entitled to exclusive possession of a unit in the cooperative.

(27) "Purchaser" means a person, other than a declarant, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than (i) a leasehold interest of less than 20 years, including renewal options, or (ii) a security interest.

(28) "Real estate" means any fee simple, leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests that by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" may include spaces with or without upper or lower boundaries, or spaces without physical boundaries.

(29) "Residential use" means use as a dwelling, whether primary, secondary or seasonal, but not transient use such as hotels or motels.

(30) "Secured party" means the person owning a security interest as defined in paragraph (31).

(31) "Security interest" means a perfected interest in real estate or personal property, created by contract or conveyance, which secures payment or performance of an obligation. The term includes a mortgagee's interest in a mortgage, a vendor's interest in a contract for deed, a lessor's interest in a lease intended as security, a holder's interest in a sheriff's certificate of sale during the period of redemption, an assignee's interest in an assignment of leases or rents intended as security, a lender's interest in a cooperative share loan, a pledgee's interest in the pledge of an ownership interest, or any other interest intended as security for an obligation under a written agreement.

(32) "Special declarant rights" means rights reserved in the declaration for the benefit of a declarant to:

(i) complete improvements indicated on the CIC plat, planned by the declarant consistent with the disclosure statement or authorized by the municipality in which the CIC is located;

(ii) add additional real estate to a common interest community;

(iii) subdivide or combine units, or convert units into common elements, limited common elements and/or units;

(iv) maintain sales offices, management offices, signs advertising the common interest community, and models;

(v) use easements through the common elements for the purpose of making improvements within the common interest community or any additional real estate;

(vi) create a master association and provide for the exercise of authority by the master association over the common interest community or its unit owners;

(vii) merge or consolidate a common interest community with another common interest community of the same form of ownership; or

(viii) appoint or remove any officer or director of the association, or the master association where applicable, during any period of declarant control.

(33) "Time share" means a right to occupy a unit or any of several units during three or more separate time periods over a period of at least three years, including renewal options, whether or not coupled with an estate or interest in a common interest community or a specified portion thereof.

(34) "Unit" means a physical portion of a common interest community the boundaries of which are described in the common interest community's declaration and which is intended for separate ownership or separate occupancy pursuant to a proprietary lease.

(35) "Unit identifier" means English letters or Arabic numerals, or a combination thereof, which identify only one unit in a common interest community and which meet the requirements of section 515B.2-104.

(36) "Unit owner" means a declarant or other person who owns a unit, a lessee under a proprietary lease, or a lessee of a unit in a leasehold common interest community whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the common interest community, but does not include a secured party. In a common interest community, the declarant is the unit owner of a unit until that unit has been conveyed to another person.

Sec. 3. Minnesota Statutes 2004, section 515B.1-106, is amended to read:

515B.1-106 [APPLICABILITY OF LOCAL REQUIREMENTS.]

(a) Except as provided in subsections (b) and (c), a zoning, subdivision, building code, or other real estate use law, ordinance, charter provision, or regulation may not directly or indirectly prohibit the common interest community form of ownership or impose any requirement upon a common interest community, upon the creation or disposition of a common interest community or upon any part of the common interest community conversion process which it would not impose upon a physically similar development under a different form of ownership. Otherwise, no provision of this chapter invalidates or modifies any provision of any zoning, subdivision, building code, or other real estate use law, ordinance, charter provision, or regulation.

(b) Subsection (a) shall not apply to any ordinance, rule, regulation, charter provision or contract provision relating to the financing of housing construction, rehabilitation, or purchases provided by or through a housing finance program established and operated pursuant to state or federal law by a state or local agency or local unit of government.

(c) A statutory or home rule charter city, pursuant to an ordinance or charter provision establishing standards to be applied uniformly within its jurisdiction, may prohibit or impose reasonable conditions upon the conversion of buildings occupied wholly or partially for residential use to the common interest community form of ownership only if there exists within the city a significant shortage of suitable rental dwellings available to low and moderate income individuals or families or to establish or maintain the city's eligibility for any federal or state program providing direct or indirect financial assistance for housing to the city. Prior to the adoption of an ordinance pursuant to the authority granted in this subsection, the city shall conduct a public hearing. Any ordinance or charter provision adopted pursuant to this subsection shall not apply to any existing or proposed conversion common interest community (i) for which a bona fide loan commitment for a consideration has been issued by a lender and is in effect on the date of adoption of the ordinance or charter provision, or (ii) for which a notice of conversion or intent to convert required by section 515B.4-111, containing a termination of tenancy, has been given to at least 75 percent of the tenants and subtenants in possession prior to the date of adoption of the ordinance or charter provision.

(d) For purposes of providing marketable title, a statement in the declaration that the common interest community is not subject to an ordinance or that any conditions required under an ordinance have been complied with shall be prima facie evidence that the common interest community was not created in violation of the ordinance.

(e) A violation of an ordinance or charter provision adopted pursuant to the provisions of subsection (b) or (c) shall not affect the validity of a common interest community. This subsection shall not be construed to in any way limit the power of a city to enforce the provisions of an ordinance or charter provision adopted pursuant to subsection (b) or (c).

(f) Any ordinance or charter provision enacted hereunder shall not be effective for a period exceeding 18 months.

Sec. 4. Minnesota Statutes 2004, section 515B.1-107, is amended to read:

515B.1-107 [EMINENT DOMAIN.]

(a) If a unit is acquired by eminent domain, or if part of a unit is acquired by eminent domain leaving the unit owner with a remnant which may not practically or lawfully be used for any material purpose permitted by the declaration, the award shall compensate the unit owner and secured party in the unit as their interests may appear, whether or not any common element interest is acquired. Upon acquisition, unless the order or final certificate otherwise provides, that unit's allocated interests are automatically reallocated among the remaining units in proportion to their respective allocated interests prior to the taking, and the association shall promptly prepare, execute, and record an amendment to the declaration reflecting the allocations. Any remnant of a unit remaining after part of a unit is taken under this subsection is thereafter a common element.

(b) Except as provided in subsection (a), if part of a unit is acquired by eminent domain, the award shall compensate the unit owner and secured party for the reduction in value of the unit and its interest in the common elements, whether or not any common elements are acquired. Upon acquisition, unless the order or final certificate otherwise provides, (i) that unit's allocated interests are reduced in proportion to the reduction in the size of the unit, or on any other basis specified in the declaration and (ii) the portion of the allocated interests divested from the partially acquired unit are automatically reallocated to that unit and to the remaining units in proportion to the respective allocated interests of those units before the taking, with the partially acquired unit participating in the reallocation on the basis of its reduced allocated interests.

(c) If part of the common elements is acquired by eminent domain, the portion of the award attributable to the common elements taken shall be paid to the association. In an eminent domain proceeding which seeks to acquire a part of the common elements, jurisdiction may be acquired by service of process upon the association. Unless the declaration provides otherwise, any portion of the award attributable to the acquisition of a limited common element shall be equally divided among the owners of the units to which that limited common element was allocated at the time of acquisition and their secured parties, as their interests may appear or as provided by the declaration.

(d) In any eminent domain proceeding the units shall be treated as separate parcels of real estate for valuation purposes, regardless of the number of units subject to the proceeding.

(e) Any distribution to a unit owner from the proceeds of an eminent domain award shall be subject to any limitations imposed by the declaration or bylaws.

(f) The court order or final certificate containing the final awards shall be recorded in every county in which any portion of the common interest community is located.

Sec. 5. Minnesota Statutes 2004, section 515B.1-116, is amended to read:

515B.1-116 [RECORDING.]

(a) A declaration, bylaws, any amendment to a declaration or bylaws, and any other instrument affecting a common interest community shall be entitled to be recorded. In those counties which have a tract index, the county recorder shall enter the declaration in the tract index for each unit or other tract affected. The county recorder shall not enter the declaration in the tract index for lands described as additional real estate, unless such lands are added to the common interest community pursuant to section 515B.2-111. The registrar of titles shall file the declaration in accordance with section 508.351 or 508A.351. The registrar of titles shall not file the declaration upon certificates

of title for lands described as additional real estate, unless such lands are added to the common interest community pursuant to section 515B.2-111.

(b) The recording officer shall upon request promptly assign a number (CIC number) to a common interest community to be formed or to a common interest community resulting from the merger of two or more common interest communities.

(c) Documents recorded pursuant to this chapter shall in the case of registered land be filed, and references to the recording of documents shall mean filed in the case of registered land.

(d) Subject to any specific requirements of this chapter, if a recorded document relating to a common interest community or a master association purports to require a certain vote or signatures approving any restatement or amendment of the document by a certain number or percentage of unit owners or secured parties, and if the amendment or restatement is to be recorded pursuant to this chapter, an affidavit of the president or secretary of the association stating that the required vote or signatures have been obtained shall be attached to the document to be recorded and shall constitute prima facie evidence of the representations contained therein.

(e) If a common interest community is located on registered land, the recording fee for any document affecting two or more units shall be the then-current fee for registering the document on the certificates of title for the first ten affected certificates and one-third of the then-current fee for each additional affected certificate. This provision shall not apply to recording fees for deeds of conveyance, with the exception of deeds given pursuant to sections 515B.2-119 and 515B.3-112. The same fees shall apply to recording any document affecting two or more units or other parcels of real estate subject to a master declaration.

(f) Except as permitted under this subsection, a recording officer shall not file or record a declaration creating a new common interest community, unless the county treasurer has certified that the property taxes payable in the current year for the real estate included in the proposed common interest community have been paid. This certification is in addition to the certification for delinquent taxes required by section 272.12. In the case of preexisting common interest communities, the recording officer shall accept, file, and record the following instruments, without requiring a certification as to the current or delinquent taxes on any of the units in the common interest community: (i) a declaration subjecting the common interest community to this chapter; (ii) a declaration changing the form of a common interest community pursuant to section 515B.2-123; or (iii) an amendment to or restatement of the declaration, bylaws, or CIC plat. In order for an instrument to be accepted and recorded under the preceding sentence, the instrument must not create or change unit or common area boundaries.

Sec. 6. Minnesota Statutes 2004, section 515B.2-101, is amended to read:

515B.2-101 [CREATION OF COMMON INTEREST COMMUNITIES.]

(a) On and after June 1, 1994, a common interest community may be created only as follows:

(1) A condominium may be created only by recording a declaration.

(2) A cooperative may be created only by recording a declaration and by recording a conveyance of the real estate subject to that declaration to the association.

(3) A planned community which includes common elements may be created only by simultaneously recording a declaration and a conveyance of the common elements subject to that declaration to the association.

(4) A planned community without common elements may be created only by recording a declaration.

(b) Except as otherwise expressly provided in this chapter, the declaration shall be executed by all persons whose interests in the real estate will be conveyed to unit owners or to the association, except vendors under contracts for deed, and by every lessor of a lease the expiration or termination of which will terminate the common interest community. The declaration shall be

recorded in every county in which any portion of the common interest community is located. Failure of any party not required to execute a declaration, but having a recorded interest in the common interest community, to join in the declaration shall have no effect on the validity of the common interest community; provided that the party is not bound by the declaration until that party acknowledges the existence of the common interest community in a recorded instrument.

(c) ~~In a condominium, a planned community utilizing a CIC plat complying with section 515B.2-110(c), or real estate a cooperative where the unit boundaries are delineated by a physical structure, a declaration, or an amendment to a declaration adding units, shall not be recorded unless all the structural components of the structures containing the units and the mechanical systems serving more than one unit in all buildings containing the units thereby created, but not the units, are substantially completed, as evidenced by a recorded certificate executed by a registered engineer or architect.~~

(d) A project which (i) meets the definition of a "common interest community" in section 515B.1-103(10), (ii) is created after May 31, 1994, and (iii) is not exempt under section 515B.1-102(e), is subject to this chapter even if this or other sections of the chapter have not been complied with, and the declarant and all unit owners are bound by all requirements and obligations of this chapter.

(e) The association shall be incorporated pursuant to section 515B.3-101 and the CIC plat shall be recorded as and if required by section 515B.2-110.

Sec. 7. Minnesota Statutes 2004, section 515B.2-102, is amended to read:

515B.2-102 [UNIT BOUNDARIES.]

(a) The declaration shall describe the boundaries of the units as provided in section 515B.2-105(5). The boundaries need not be delineated by a physical structure. The unit may consist of noncontiguous portions of the common interest community.

(b) ~~In a condominium or, a cooperative, or a planned community utilizing a CIC plat complying with section 515B.2-110(c), except as the declaration otherwise provides, if the walls, floors, or ceilings of a unit are designated as its boundaries, then the boundaries shall be the interior, unfinished surfaces of the perimeter walls, floors and ceilings, doors, windows, and door and window frames of the unit. All paneling, tiles, wallpaper, paint, floor covering, and any other finishing materials applied to the interior surfaces of the perimeter walls, floors or ceilings, are a part of the unit, and all other portions of the perimeter walls, floors, or ceilings, including perimeter doors and windows, and their door and window frames, are a part of the common elements.~~

(c) ~~In a planned community, except as the declaration otherwise provides utilizing a CIC plat complying with section 515B.2-110(d)(1) and (2), the unit boundaries shall be the boundary lines as designated on a plat recorded pursuant to chapter 505 or on a registered land survey filed lot lines designated on a plat recorded pursuant to chapter 508 or 508A 505.~~

(d) ~~If any chute, flue, duct, wire, pipe, conduit, bearing wall, bearing column, or any other fixture serving fewer than all units lies partially within and partially outside of the designated boundaries of a the unit or units served, any portion thereof serving only that unit or units is a limited common element allocated solely to that unit or units, and any portion thereof serving more than one unit or any portion of the common elements is a part of the common elements.~~

(e) Subject to subsection (d), all spaces, interior partitions, and other fixtures and improvements within the boundaries of a unit are a part of the unit.

(f) Improvements such as shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, decks, patios, perimeter doors and windows, and their frames, constructed as part of the original construction to serve a single unit, and authorized replacements and modifications thereof, if located wholly or partially outside the unit's boundaries, are limited common elements allocated exclusively to that unit.

Sec. 8. Minnesota Statutes 2004, section 515B.2-104, is amended to read:

515B.2-104 [DESCRIPTION OF UNITS.]

(a) A description of a unit is legally sufficient if it sets forth (i) the unit identifier of the unit, (ii) the number assigned to the common interest community by the recording officer, and (iii) the county in which the unit is located.

(b) If the CIC plat for a planned community complies with chapter 505, 508, or 508A, then a description of a unit in the planned community is legally sufficient if it is stated in terms of a plat or registered land survey. In planned communities whose CIC plats comply with section 515B.2-110(c), and in all condominiums and cooperatives created under this chapter, a unit identifier shall contain no more than six characters, only one of which may be a letter.

(c) A description which ~~conforms to the requirements of~~ complies with this section shall be deemed to include all rights, obligations, and interests appurtenant to the unit which were created by the declaration or bylaws, by a master declaration, or by this chapter, whether or not those rights, obligations, or interests are expressly described.

(d) If the CIC plat for a planned community complies with section 515B.2-110(c) a description of the common elements is legally sufficient if it sets forth (i) the words "common elements," (ii) the number assigned to the common interest community by the recording officer, and (iii) the county in which the common elements are located. The common elements may consist of separate parcels of real estate, in which case each parcel shall be separately identified on the CIC plat and in any recorded instrument referencing a separate parcel of the common elements.

Sec. 9. Minnesota Statutes 2004, section 515B.2-106, is amended to read:

515B.2-106 [DECLARATION OF FLEXIBLE COMMON INTEREST COMMUNITIES.]

(a) The declaration for a flexible common interest community shall include, in addition to the matters specified in section 515B.2-105:

(1) a reservation of any rights to add additional real estate;

(2) a statement of any time limit, not exceeding ten years after the recording of the declaration, upon which any right reserved under paragraph (1) will lapse, together with a statement of any circumstances that will terminate the option before the expiration of the time limit. If no time limit is set forth in the declaration, the time limit shall be ten years after the recording of the declaration; provided, that the time limit may be extended by an amendment to the declaration approved in writing by the declarant, and by the vote or written agreement of unit owners, other than the declarant or an affiliate of the declarant, to whose units are allocated at least 67 percent of the votes in the association;

(3) a statement of any limitations on any rights reserved under paragraph (1), other than limitations created by or imposed pursuant to law;

(4) a legally sufficient description of the additional real estate;

(5) a statement as to whether portions of any additional real estate may be added at different times;

(6) a statement of (i) the maximum number of units, based upon the declarant's good faith estimate, that may be created within any additional real estate, and (ii) how many of those units will be restricted to residential use;

(7) a statement that any buildings and units erected upon the additional real estate, when and if added, will be compatible with the other buildings and units in the common interest community in terms of architectural style, quality of construction, principal materials employed in construction, and size, or a statement of any differences with respect to the buildings or units, or a statement that no assurances are made in those regards;

(8) a statement that all restrictions in the declaration affecting use, occupancy, and alienation of units will apply to units created in the additional real estate, when and if added, or a statement of any differences with respect to the additional units;

(9) a statement as to whether any assurances made in the declaration regarding additional real estate pursuant to paragraphs (5) through (8) will apply if the real estate is not added to the common interest community.

(b) A declarant need not have an interest in the additional real estate in order to identify it as such in the declaration, and the recording officer shall index the declaration as provided in section 515B.1-116(a). Identification of additional real estate in the declaration does not encumber or otherwise affect the title to the additional real estate.

Sec. 10. Minnesota Statutes 2004, section 515B.2-108, is amended to read:

515B.2-108 [ALLOCATION OF INTERESTS.]

(a) The declaration shall allocate to each unit:

(1) in a condominium, a fraction or percentage of undivided interests in the common elements and in the common expenses of the association and a portion of the votes in the association;

(2) in a cooperative, an ownership interest in the association, a fraction or percentage of the common expenses of the association and a portion of the votes in the association; and

(3) in a planned community, a fraction or percentage of the common expenses of the association and a portion of the votes in the association.

(b) The declaration shall state the formulas used to establish allocations of interests. If the fractions or percentages are all equal the declaration may so state in lieu of stating the fractions or percentages. If equality is designated by The declaration as the formula for the allocation of votes, need not allocate votes do not attach to units that are auxiliary to other units, such as garage units or storage units. The allocations shall not discriminate in favor of units owned by the declarant or an affiliate of the declarant, except as provided in sections 515B.2-121 and 515B.3-115.

(c) If units may be added to the common interest community, ~~the declaration shall state the formulas to be used to reallocate the allocated interests among all units included in the common interest community after the addition~~ shall be the formulas stated in the declaration.

(d) The declaration may authorize special allocations: (i) of unit owner votes among certain units or classes of units on particular matters specified in the declaration, or (ii) of common expenses among certain units or classes of units on particular matters specified in the declaration. Special allocations may only be used to address operational, physical or administrative differences within the common interest community. A declarant may not utilize special allocations for the purpose of evading any limitation or obligation imposed on declarants by this chapter nor may units constitute a class because they are owned by a declarant.

(e) The sum of each category of allocated interests allocated at any time to all the units must equal one if stated as a fraction or 100 percent if stated as a percentage. In the event of a discrepancy between an allocated interest and the result derived from application of the pertinent formula, the allocated interest prevails.

(f) In a condominium or planned community, the common elements are not subject to partition, and any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the common elements made without the unit to which that interest is allocated is void. The granting of easements, licenses or leases pursuant to section 515B.3-102 shall not constitute a partition.

(g) In a cooperative, any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an ownership interest in the association made without the possessory interest in the unit to which that interest is related is void.

Sec. 11. Minnesota Statutes 2004, section 515B.2-110, is amended to read:

515B.2-110 [COMMON INTEREST COMMUNITY PLAT (CIC PLAT).]

(a) A CIC plat is required for condominiums and planned communities, and cooperatives in which the unit owners' interests are characterized as real estate. The CIC plat is a part of the declaration in condominiums, in planned communities utilizing a CIC plat complying with subsection (c), and in cooperatives in which the unit owners' interests are characterized as real estate, but need not be physically attached to the declaration.

(1) In a condominium, or a cooperative in which the unit owners' interests are characterized as real estate, the CIC plat shall comply with subsection (c).

(2) In a planned community, a CIC plat which does not comply with subsection (c) shall consist of all or part of a subdivision plat or plats complying with subsections (d)(1) and (d)(2). The CIC plat need not contain the number of the common interest community and may be recorded at any time ~~at or before the time of recording of the declaration;~~ provided, that if the CIC plat for the planned community complies with subsection (c), the number of the common interest community shall be included and the CIC plat shall be recorded at the time of recording of the declaration.

(3) In a cooperative in which the unit owners' interests are characterized as personal property, a CIC plat shall not be required. In lieu of a CIC plat, the declaration or any amendment to it creating, converting, or subdividing units in a personal property cooperative shall include an exhibit containing a scale drawing of each building, identifying the building, and showing the perimeter walls of each unit created or changed by the declaration or any amendment to it, including the unit's unit identifier, and its location within the building if the building contains more than one unit.

(b) The CIC plat, or supplemental or amended CIC plat, for condominiums, for planned communities using a plat complying with subsection (c), and for cooperatives in which the unit owners' interests are characterized as real estate, shall contain certifications by a registered professional land surveyor and registered professional architect, as to the parts of the CIC plat prepared by each, that (i) the CIC plat accurately depicts all information required by this section, and (ii) the work was undertaken by, or reviewed and approved by, the certifying land surveyor or architect. The portions of the CIC plat depicting the dimensions of the portions of the common interest community described in subsections (c)(8), (9), (10), and (12), may be prepared by either a land surveyor or an architect. The other portions of the CIC plat shall be prepared only by a land surveyor. A certification of the CIC plat or an amendment to it under this subsection by an architect is not required if all parts of the CIC plat or amendment are prepared by a land surveyor. Certification by the land surveyor or architect does not constitute a guaranty or warranty of the nature, suitability, or quality of construction of any improvements located or to be located in the common interest community.

(c) A CIC plat for a condominium, or a cooperative in which the unit owners' interests are characterized as real estate, shall show:

(1) the number of the common interest community, and the boundaries, dimensions and a legally sufficient description of the land included therein;

(2) the dimensions and location of all existing, material structural improvements and roadways;

(3) the intended location and dimensions of any contemplated common element improvements to be constructed within the common interest community after the filing of the CIC plat, labeled either "MUST BE BUILT" or "NEED NOT BE BUILT";

(4) the location and dimensions of any additional real estate, labeled as such, and a legally sufficient description of the additional real estate;

(5) the extent of any encroachments by or upon any portion of the common interest community;

(6) the location and dimensions of all recorded easements within the land included in the

common interest community ~~servicing or~~ burdening any portion of the ~~common interest community land~~;

(7) the distance and direction between noncontiguous parcels of real estate;

(8) the location and dimensions of limited common elements, except that with respect to limited common elements described in section 515B.2-102, subsections (d) and (f), only such material limited common elements as porches, balconies, decks, patios, and garages shall be shown;

(9) the location and dimensions of the front, rear, and side boundaries of each unit and that unit's unit identifier;

(10) the location and dimensions of the upper and lower boundaries of each unit with reference to an established or assumed datum and that unit's unit identifier;

(11) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as "leasehold real estate";

(12) any units which may be converted by the declarant to create additional units or common elements identified separately.

(d) A CIC plat for a planned community either shall comply with subsection (c), or it shall:

(1) ~~satisfy the requirements of~~ comply with chapter 505, ~~508, or 508A, as applicable~~; and

(2) ~~satisfy~~ comply with the platting requirements of any governmental authority within whose jurisdiction the planned community is located, subject to the limitations set forth in section 515B.1-106.

(e) If a declarant adds additional real estate, the declarant shall record a supplemental CIC plat or plats for the real estate being added, conforming to the requirements of this section which apply to the type of common interest community in question. If less than all additional real estate is being added, the supplemental CIC plat for a condominium, a planned community whose CIC plat complies with subsection (c), or a cooperative in which the unit owners' interests are characterized as real estate, shall also show the location and dimensions of the remaining portion.

(f) If, pursuant to section 515B.2-112, a declarant subdivides or converts any unit into two or more units, common elements or limited common elements, or combines two or more units, the declarant shall record an amendment to the CIC plat showing the location and dimensions of any new units, common elements and or limited common elements thus created.

(g) A CIC plat which complies with subsection (c) is not subject to chapter 505.

Sec. 12. Minnesota Statutes 2004, section 515B.2-111, is amended to read:

515B.2-111 [EXPANSION OF FLEXIBLE COMMON INTEREST COMMUNITY.]

(a) To add additional real estate pursuant to a right reserved under section ~~515B.2-106(1)~~ 515B.2-106(a)(1), the declarant and all persons whose interests in the additional real estate will be conveyed to unit owners or the association, except vendors under a contract for deed, shall execute and record an amendment to the a supplemental declaration as provided in this section. The amendment to the supplemental declaration shall be titled a "supplemental declaration," shall be limited to matters authorized by this section, and shall include:

(1) ~~assign a unit identifier to each unit formed in the additional~~ a legally sufficient description of the real estate added by the supplemental declaration;

(2) reallocate a description of the boundaries of each unit created by the supplemental declaration, consistent with the declaration, and the unit's unit identifier;

(3) in a planned community containing common elements, a legally sufficient description of the common elements;

(4) a reallocation of the common element interests, votes in the association, and common expense liabilities as applicable, in compliance with the declaration and section 515B.2-108;

(3) describe (5) a description of any limited common elements formed out of the additional real estate, designating the unit to which each is allocated to the extent required by section 515B.2-109;

(6) a statement as to whether or not the period of declarant control has terminated, regardless of the reason for such termination; and

(4) (7) contain such other provisions as may be reasonably an attached affidavit attesting to the giving of the notice required by the association; and subsection (b), if such notice is required.

(5) conform to the applicable requirements of the declaration and the act.

(b) If the period of declarant control has terminated, a declarant shall give notice of its intention to add additional real estate as follows: to the association (Attention: president of the association) by a notice given in the manner provided in section 515B.1-115 not less than 15 days prior to recording the supplemental declaration which adds the additional real estate. A copy of the supplemental declaration shall be attached to the notice. The supplemental declaration may be in proposed form; however, following notice, the supplemental declaration shall not be changed so as to materially and adversely affect the rights of unit owners or the association unless a new 15-day notice is given in accordance with this section.

(1) If the period of declarant control has expired, to the association in the same manner as service of summons in a civil action in district court at least 15 days prior to recording the amendment. A copy of the amendment shall be attached to the notice.

(2) If the period of declarant control has not expired, to the unit owners by notice (one notice per unit) given in the manner provided in section 515B.1-115, not less than 15 days prior to recording the amendment, addressed to "Unit Owner Entitled to Legal Notice" at each unit or to the unit owner at such other address as may be designated by notice from the unit owner. The declarant shall provide a copy of the amendment at no cost to any unit owner within five business days of the unit owner's request, and the notice shall include a statement to that effect.

(3) Proof of notice to the association or the unit owners, as the case may be, shall be attached to the recorded amendment. Following service of notice, the amendment shall not be changed so as to materially and adversely affect the rights of unit owners or the association.

(c) A lien upon the additional real estate that is not also upon the existing common interest community is a lien only upon the units, and their respective interest in the common elements (if any), that are created from the additional real estate. Units within the common interest community as it existed prior to expansion are transferred free of liens that existed only upon the additional real estate, notwithstanding the fact that the interest in the common elements is a portion of the entire common interest community, including the additional real estate.

(d) If a supplemental declaration in a planned community creates common elements, then a conveyance of the common elements to the association shall be recorded simultaneously with the supplemental declaration. If a supplemental declaration adds additional real estate to a cooperative, then a conveyance of the additional real estate to the association shall be recorded simultaneously with the supplemental declaration.

Sec. 13. Minnesota Statutes 2004, section 515B.2-112, is amended to read:

515B.2-112 [SUBDIVISION, COMBINATION, OR CONVERSION OF UNITS.]

(a) If the declaration so provides, (i) a unit owned by a person other than a declarant one or more units may be subdivided into two or more units or combined into a lesser number of units, or (ii) a unit or units owned exclusively by a declarant may be subdivided, combined, or converted into two one or more units, limited common elements, common elements, or a combination of units, limited common elements or common elements, subject to subsections (b) and (c).

(b) If a the unit is or units are not owned exclusively by a unit owner other than a declarant, the unit owner owners of the units to be combined or subdivided shall prepare cause to be prepared and submit submitted to the association for approval an application for an amendment to the declaration and amended CIC plat, for the purpose of subdividing or combining the unit or units. The application shall contain, at a minimum, a general description of the proposed subdivision or combination, and shall specify in detail the matters required by paragraphs (2) subsection (c)(2) and (3). The basis for disapproval of the application by the association shall be limited to (i) health or safety considerations, (ii) liability considerations for the association and other unit owners, (iii) aesthetic changes to the common elements or another unit, (iv) any material and adverse impact on the common elements or another unit, or (v) a failure to comply with the declaration, this chapter, or governmental laws, ordinances, or regulations. The association shall give written notice of its decision and required changes to the unit owner or owners who made the application. The association shall establish fair and reasonable procedures and time frames for the submission and prompt processing of the applications.

(c) If ~~the an~~ application under subsection (b) is approved, the unit owner shall cause an amendment and amended CIC plat to be prepared based upon the approved application. The amendment shall:

(1) be executed by the association and by each unit owner and any secured party with respect to the each unit to be combined or subdivided;

(2) assign a unit identifier to each unit created resulting from the subdivision or combination;

(3) reallocate the common element interest, votes in the association, and common expense liability, as applicable, formerly allocated to the unit or units to be combined or subdivided among the unit or units created resulting from the subdivision or combination on the basis of the formula described in the declaration; and

(4) ~~contain such other provisions as may be reasonably required by the association; and~~

(5) ~~conform to the requirements of the declaration and this chapter. The basis for disapproval shall be limited to (i) structural or safety considerations, (ii) liability considerations for the association and other unit owners, (iii) aesthetic considerations if the changes affect exterior portions of a structure, or (iv) a failure to comply with the declaration, this chapter, or governmental laws, ordinances or regulations. The association shall give written notice of its decision and/or required changes to the unit owner.~~

(d) ~~If the association determines that the amendment conforms and amended CIC plat conform to the approved application, the declaration, and this chapter, the association shall be obligated to execute the amendment and cooperate in its recording cause the amendment and the amended CIC plat to be recorded. The unit owner shall record the amendment and the amended CIC plat and deliver a copy of the recorded amendment and amended CIC plat to the association. The association may require the unit owners executing the amendment to pay all fees and costs for reviewing, preparing, and recording the amendment and the amended CIC plat, and any other fees or costs incurred by the association in connection therewith.~~

(e) (e) If a the unit is or units are owned exclusively by a declarant, the declarant shall have the authority to unilaterally prepare and record, at its expense, an amendment and an amended CIC plat subdividing, combining, or converting the unit or units. The amendment shall comply with the requirements of subsection (b)(1) subsections (c)(1), (2), (3), and (5) (4), and shall be limited to those provisions necessary to accomplish the subdivision, combination, or conversion unless the consent of unit owners required to amend the declaration is obtained.

(d) ~~If (f) The amended CIC plat shall show the resulting common elements, limited common elements or units, as subdivided, combined, or converted.~~

(g) ~~A secured party joins in the amendment pursuant to this section, its party's interest and remedies shall be deemed to apply to the unit or units and the common element interests that result from the subdivision or conversion combination of the unit or units in which the secured party~~

held a security interest. If the secured party enforces any remedy, including foreclosure of its lien, against any of the resulting units created, all instruments and notices relating to the foreclosure shall describe the subject property in terms of the amendment and the amended descriptions CIC plat which created the resulting units.

Sec. 14. Minnesota Statutes 2004, section 515B.2-113, is amended to read:

515B.2-113 [ALTERATIONS OF UNITS.]

(a) Subject to the provisions of the declaration and applicable law, a unit owner may, at the unit owner's expense, make any improvements or alterations to the unit, provided: (i) that they do not impair the structural integrity or mechanical systems, affect the common elements, or impair the support of any portion of the common interest community; (ii) that prior arrangements are made with the association to ensure that other unit owners are not disturbed; (iii) that the common elements are not damaged; and (iv) that the common elements and other units are protected against mechanics' liens.

(b) Subject to the provisions of applicable law, a unit owner of a unit in residential use may, at the unit owner's expense, make improvements or alterations to the unit as necessary for the full enjoyment of the unit by any person residing in the unit who has a handicap or disability, as provided in the Fair Housing Amendments Act, United States Code, title 42, section 3601, et seq., and the Minnesota Human Rights Act, chapter 363A, and any amendments to those acts.

(c) The declaration, bylaws, rules, and regulations, or agreements with the association may not prohibit the improvements or alterations referred to in subsection (b), but may reasonably regulate the type, style, and quality of the improvements or alterations, as they relate to health, safety, and architectural standards. In addition, improvements or alterations made pursuant to subsection (b) must satisfy the requirements of comply with subsection (a)(i), (ii), (iii), and (iv).

(d) Notwithstanding any contrary provision of section 515B.1-102, subsection (b) applies to all common interest communities subject to this chapter, chapter 515, or 515A. The unit owner's rights under this section may not be waived.

(e) Subsection (b) does not apply to restrictions on improvements or alterations imposed by statute, rule, or ordinance.

(f) Subject to the provisions of the declaration and applicable law, a unit owner may, at the unit owner's expense, after acquiring title to an adjoining unit or an adjoining part of an adjoining unit, with the prior written approval of the association and first mortgagees of the affected units, remove or alter any intervening partition or create apertures therein, even if the partition is part of the common elements, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the common interest community. The adjoining unit owners shall have the exclusive license to use the space occupied by the removed partition, but the use shall not create an easement or vested right. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries. The association may require that the owner or owners of units affected replace or restore any removed partition, that the unit owner comply with subsection (a)(i), (ii) and (iii), and that the unit owner pay all fees and costs incurred by the association in connection with the alteration.

Sec. 15. Minnesota Statutes 2004, section 515B.2-118, is amended to read:

515B.2-118 [AMENDMENT OF DECLARATION.]

(a) The declaration, including any CIC plat, may be amended only by vote or written agreement of unit owners of units to which at least 67 percent of the votes in the association are allocated, or any greater or other requirement the declaration specifies, subject to the following qualifications:

(1) A declarant may execute supplemental declarations or amendments under section 515B.2-111 or 515B.2-112.

(2) The association and certain unit owners, as applicable, may execute amendments under

section 515B.2-107, 515B.2-109, 515B.2-112, 515B.2-113, 515B.2-114, 515B.2-119, 515B.2-122, 515B.2-123, or 515B.2-124.

(3) The unanimous written consent of the unit owners is required for any amendment which (i) creates or increases special declarant rights, (ii) increases the number of units, (iii) changes the boundaries of any unit, (iv) changes the allocated interests of a unit, (v) changes common elements to limited common elements or units, (vi) changes the authorized use of a unit from residential to nonresidential, or conversely, or (vii) changes the characterization of the unit owner's interest in a cooperative from real estate to personal property, or conversely; unless the amendment is expressly permitted or required by other provisions of this chapter. Where the amendment involves the conversion of common elements into a unit or units, the title to the unit or units created shall, upon recording of the amendment, vest in the association free and clear of the interests of the unit owners.

(4) The declaration may specify less than 67 percent for approval of an amendment, but only if all of the units are restricted to nonresidential use.

(b) No action to challenge the validity of an amendment adopted by the association pursuant to this section may be brought more than two years after the amendment is recorded.

(c) Every amendment to the declaration shall be recorded in every county in which any portion of the common interest community is located and is effective only when recorded. If an amendment (i) changes the number of units, (ii) changes the boundary of a unit, (iii) changes common elements to limited common elements, or conversely, or (iv) makes any other change that affects the CIC plat, then an amendment to the CIC plat reflecting the change shall be recorded.

Sec. 16. Minnesota Statutes 2004, section 515B.2-119, is amended to read:

515B.2-119 [TERMINATION OF COMMON INTEREST COMMUNITY.]

(a) Except as otherwise provided in this chapter, a common interest community may be terminated only by agreement of unit owners of units to which at least 80 percent of the votes in the association are allocated, and 80 percent of the first mortgagees of units (each mortgagee having one vote per unit financed), or any larger percentage the declaration specifies. The declaration may specify a smaller percentage only if all of the units are restricted to nonresidential use.

(b) An agreement to terminate shall be evidenced by a written agreement, executed in the same manner as a deed by the number of unit owners and first mortgagees of units required by subsection (a). The agreement shall specify a date after which the agreement shall be void unless recorded before that date. The agreement shall also specify a date by which the termination of the common interest community and the winding up of its affairs must be accomplished. A certificate of termination executed by the association evidencing the termination shall be recorded on or before the termination date, or the agreement to terminate shall be revoked. The agreement to terminate, or a memorandum thereof, and the certificate of termination shall be recorded in every county in which a portion of the common interest community is situated and is effective only upon recording.

(c) In the case of a condominium or planned community containing only units having upper and lower boundaries, a termination agreement may provide that all of the common elements and units of the common interest community must be sold following termination. If, pursuant to the agreement, any real estate in the common interest community is to be sold following termination, the termination agreement shall set forth the minimum terms of sale acceptable to the association.

(d) In the case of a condominium or planned community containing any units not having upper and lower boundaries, a termination agreement may provide for sale of the common elements, but it may not require that the units be sold following termination, unless the original declaration provided otherwise or all unit owners whose units are to be sold consent to the sale.

(e) The association, on behalf of the unit owners, shall have authority to contract for the sale of real estate in a common interest community pursuant to this section, subject to the required

approval. The agreement to terminate shall be deemed to grant to the association a power of attorney coupled with an interest to effect the conveyance of the real estate on behalf of the holders of all interests in the units, including without limitation the power to execute all instruments of conveyance and related instruments. Until the sale has been completed, all instruments in connection with the sale have been executed and the sale proceeds distributed, the association shall continue in existence with all powers it had before termination.

(1) The instrument conveying or creating the interest in the common interest community shall include as exhibits (i) an affidavit of the secretary of the association certifying that the approval required by this section has been obtained and (ii) a schedule of the names of all unit owners in the common interest community as of the date of the approval.

(2) Proceeds of the sale shall be distributed to unit owners and secured parties as their interests may appear, in accordance with subsections (h), (i), (j), and (k).

(3) Unless otherwise specified in the agreement of termination, until the association has conveyed title to the real estate, each unit owner and the unit owner's successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit. During the period of that occupancy, each unit owner and the unit owner's successors in interest remain liable for all assessments and other obligations imposed on unit owners by this chapter, the declaration or the bylaws.

(f) The legal description of the real estate constituting the common interest community shall, upon the date of recording of the certificate of termination referred to in subsection (b), be as follows:

(1) In a planned community utilizing a CIC plat complying with section 515B.2-110(d)(1) and (2), the lot and block description contained in the CIC plat, and any amendments thereto, subject to any subsequent conveyance or taking of a fee interest in any part of the property.

(2) In a condominium or cooperative, or a planned community utilizing a CIC plat complying with section 515B.2-110(c), the underlying legal description of the real estate as set forth in the declaration creating the common interest community, and any amendments thereto, subject to any subsequent conveyance or taking of a fee interest in any part of the property.

(3) The legal description referred to in this subsection shall apply upon the recording of the certificate of termination. The recording officer for each county in which the common interest community is located shall index the property located in that county in its records under the legal description required by this subsection from and after the date of recording of the certificate of termination. In the case of registered property, the registrar of titles shall cancel the existing certificates of title with respect to the property and issue one or more certificates of title for the property utilizing the legal description required by this subsection.

(g) In a condominium or planned community, if the agreement to terminate provides that the real estate constituting the common interest community is not to be sold following termination, title to the common elements and, in a common interest community containing only units having upper and lower boundaries described in the declaration, title to all the real estate in the common interest community, vests in the unit owners upon termination as tenants in common in proportion to their respective interest as provided in subsection (k), and liens on the units shift accordingly. While the tenancy in common exists, each unit owner and the unit owner's successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit.

(h) The proceeds of any sale of real estate pursuant to subsection (e), together with the assets of the association, shall be held by the association as trustee for unit owners, secured parties and other holders of liens on the units as their interests may appear. Before distributing any proceeds, the association shall have authority to deduct from the proceeds of sale due with respect to the unit (i) unpaid assessments levied by the association with respect to the unit, (ii) unpaid real estate taxes or special assessments due with respect to the unit, and (iii) the share of expenses of sale and winding up of the association's affairs with respect to the unit.

(i) Following termination of a condominium or planned community, creditors of the association holding liens on the units perfected before termination may enforce those liens in the same manner as any lien holder, in order of priority based upon their times of perfection. All other creditors of the association are to be treated as if they had perfected liens on the units immediately before termination.

(j) In a cooperative, the declaration may provide that all creditors of the association have priority over any interests of unit owners and creditors of unit owners. In that event, following termination, creditors of the association holding liens on the cooperative which were perfected before termination may enforce their liens in the same manner as any lien holder, in order of priority based upon their times of perfection. All other creditors of the association shall be treated as if they had perfected a lien against the cooperative immediately before termination. Unless the declaration provides that all creditors of the association have that priority:

(1) the lien of each creditor of the association which was perfected against the association before termination becomes, upon termination, a lien against each unit owner's interest in the unit as of the date the lien was perfected;

(2) any other creditor of the association is to be treated upon termination as if the creditor had perfected a lien against each unit owner's interest immediately before termination;

(3) the amount of the lien of an association's creditor described in paragraphs (1) and (2) against each of the unit owners' interest shall be proportionate to the ratio which each unit's common expense liability bears to the common expense liability of all of the units;

(4) the lien of each creditor of each unit owner which was perfected before termination continues as a lien against that unit owner's interest in the unit as of the date the lien was perfected; and

(5) the assets of the association shall be distributed to all unit owners and all lien holders as their interests may appear in the order described in this section. Creditors of the association are not entitled to payment from any unit owner in excess of the amount of the creditor's lien against that unit owner's interest.

(k) The respective interest of unit owners referred to in subsections (e), (f), (g), (h) and (i) are as follows:

(1) Except as provided in paragraph (2), the respective interests of unit owners are the fair market values of their units, allocated interests, and any limited common elements immediately before the termination, as determined by one or more independent appraisers selected by the association. The decision of the independent appraisers must be distributed to the unit owners and becomes final unless disapproved within 30 days after distribution by unit owners of units to which 25 percent of the votes in the association are allocated. The proportion of any unit's interest to that of all units is determined by dividing the fair market value of that unit by the total fair market values of all the units.

(2) If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value thereof before destruction cannot be made, the interests of all unit owners ~~are~~ shall be measured by: (i) in a condominium, their respective allocations of common element interests immediately before the termination, (ii) in a cooperative, their respective ownership interests immediately before the termination, and (iii) in a planned community, their respective allocations of common expense liabilities expenses immediately before the termination.

(1) In a condominium or planned community, except as provided in subsection (m), foreclosure or enforcement of a lien or encumbrance against the entire common interest community does not terminate, of itself, the common interest community, and foreclosure or enforcement of a lien or encumbrance against a portion of the common interest community does not withdraw that portion from the common interest community.

(m) In a condominium or planned community, if a lien or encumbrance against a portion of the real estate comprising the common interest community has priority over the declaration and the

lien or encumbrance has not been partially released, the parties foreclosing the lien or encumbrance, upon foreclosure, may record an instrument excluding the real estate subject to that lien or encumbrance from the common interest community.

(n) Following the termination of a common interest community in accordance with this section, the board of directors of the association shall cause the association to be dissolved in accordance with law.

Sec. 17. Minnesota Statutes 2004, section 515B.2-121, is amended to read:

515B.2-121 [MASTER ASSOCIATIONS.]

(a) A master association formed after June 1, 1994, shall be organized as a Minnesota profit, nonprofit or cooperative corporation. A master association shall be incorporated prior to the delegation to it of any powers under this chapter.

(b) The members of the master association shall be any combination of (i) unit owners of one or more common interest communities, (ii) one or more associations, (iii) one or more master associations, or (iv) owners of real estate or property owners' associations not subject to this chapter in combination with any other category of member. An association or its members may be members of an entity created before June 1, 1994, which performs functions similar to those performed by a master association regardless of whether the entity is subject to this chapter.

(c) A master association shall be governed by a board of directors. Except as expressly prohibited by the master declaration, the master association's articles of incorporation or bylaws, or other provisions of this chapter, the master association board may act in all instances on behalf of the master association. The directors of a master association shall be elected or, if a nonprofit corporation, elected or appointed, in a manner consistent with the requirements of the statute under which the master association is formed and of the master association's articles of incorporation and bylaws, and subject to the following requirements:

(1) Except as set forth in subsections (2) and (3), the members of the master association shall elect the board of directors. A majority of the directors shall be members of the master association or members of a member of the master association, and shall be persons other than a declarant or affiliate of a declarant. If the member is not a natural person, it may designate a natural person to act on its behalf.

(2) The articles of incorporation or bylaws of the master association may authorize a any person other than, whether or not the person is a member of, or otherwise subject to, the master association or a unit owner, including a declarant, to appoint or elect one director.

(3) A master association's articles of incorporation may suspend the members' right to elect or, in the case of a nonprofit corporation, elect or appoint, the master association's board of directors for a specified time period. During this period, the person or persons who execute the master declaration under subsection (f)(1), or their successors or assigns, may appoint the directors. The period during which the person or persons may appoint the directors begins when the master declaration is recorded and terminates upon the earliest of:

- (i) the voluntary surrender of the right to appoint directors;
- (ii) the date ten years after the date the master declaration is recorded;
- (iii) the date, if any, in the articles of incorporation; or

(iv) the date when at least 75 percent of the associations that are members of the master association or whose members are members of the master association are controlled by their members. An association's members control the association when they have the right to elect or appoint a majority of the association's voting directors units and other parcels of real estate which are referred to in subsection (f)(1)(vii) have been conveyed to such persons for occupancy by the persons or their tenants.

(4) The term of any director appointed under subsection (3) expires 60 days after the right to appoint directors terminates. The master association's board of directors shall call an annual or special meeting of the master association's members to elect or appoint successor directors within the 60-day period.

(5) The system for the election of directors shall be fair and equitable and shall take into account the number of members of each association any of whose powers are delegated to the master association, the needs of the members of the master association, the allocation of liability for master association common expenses, and the types of common interest communities and other real estate subject to the master association.

(d) The articles of incorporation or bylaws of the master association may authorize special classes of directors and allocations of director voting rights, as follows: (i) classes of directors that are elected by different classes of members, to address operational, physical, or administrative differences within the master association, or (ii) class voting by the classes of directors on specific issues affecting only a certain class or classes of members or units or other parcels of real estate, or to otherwise protect the legitimate interests of such class or classes. No person may utilize such special classes or allocations for the purpose of evading any limitation imposed on declarants by this chapter.

(e) The officers of a master association shall be elected, appointed, or designated in a manner consistent with the statute under which the master association is formed and consistent with the master association articles of incorporation and bylaws.

(f) The creation and authority of a master association shall be governed by the following requirements:

(1) A master declaration shall be recorded in connection with the creation of a master association. The master declaration shall be executed by the owners of the real estate subjected to the master declaration. The master declaration shall contain, at a minimum:

(i) the name of the master association;

(ii) a legally sufficient description of the real estate which is subject to the master declaration and a legally sufficient description of any other real estate which may be subjected to the master declaration pursuant to subsection (g);

(iii) a statement as to whether the real estate subject to, and which may be subjected to, the master declaration collectively is or collectively will be a separate common interest community;

(iv) a description of the members of the master association;

(v) a description of the master association's powers. ~~To be exercised by the master association on behalf of its members and on behalf of the members of its members in the case of members that are common interest communities. The provisions of the master declaration with respect to the grant and exercise of powers for common interest communities subject to the master association shall be consistent with the declarations of the common interest communities that delegate powers to the master association~~ the extent described in the master declaration, a master association has the powers with respect to the master association's members and the property subject to the master declaration that section 515B.3-102 grants to an association with respect to the association's members and the property subject to the declaration. A master association also has the powers delegated to it by an association pursuant to subsection (f)(2) or by a property owner's association not subject to the chapter; provided (i) that the master declaration identifies the powers and authorizes the delegation either expressly or by a grant of authority to the board of the association or property owner's association and (ii) that the master association board has not refused the delegation pursuant to subsection (f)(4). The provisions of the declarations of the common interest communities, or the provisions of recorded instruments governing other property subject to the master declaration, that delegate powers to the master association shall be consistent with the provisions of the master declaration that govern the delegation of the powers;

(vi) a description of the ~~formula~~ formulas governing the allocation of assessments and member voting rights, including any special classes or allocations referred to in subsection (d); ~~and~~

(vii) a statement of the total number of units and other parcels of real estate intended for residential use by a person or the person's tenants that are (i) subject to the master declaration as initially recorded and (ii) intended to be created by the addition of real estate or by the subdivision of units or other parcels of real estate; and

(viii) the requirements for amendment of the master declaration, other than an amendment under subsection (g).

~~(2) The declaration of a common interest community subject to the master association shall contain provisions delegating, or authorizing the delegation of, powers to the master association in accordance with subsection (f)(3). The provisions of the declarations relating to the delegation shall be consistent with the provisions of the master declaration granting or reserving those powers to the master association.~~

~~(3) The declaration of a common interest community located on property subject to a master declaration may:~~

~~(i) delegate any of the powers described in section 515B.3-102 to a the master association.; provided, that a delegation of the powers described in section 515B.3-102(a)(2) is effective only if expressly stated in the declaration; and~~

~~(ii) authorize the board to delegate any of the powers described in section 515B.3-102, except for the powers described in section 515B.3-102(a)(2), to a the master association.~~

~~(4) (3) With respect to any other property subject to a master association, there need not be an instrument other than the master declaration recorded against the property to empower the master association to exercise powers with respect to the property.~~

~~(5) (4) If a declaration or other recorded instrument authorizes a the board or owner the board of a property owner's association to delegate powers to a master association, the master association board may refuse any delegation of powers that does not comply with (i) this chapter, (ii) the declaration or other recorded instrument, or (iii) the organizational documents of the master association.~~

~~(6) (5) The failure of a declaration, a board or an owner of property subject to a master association to properly delegate some or all of the powers to the master association does not affect the authority of the master association to exercise those and other powers with respect to other common interest communities or owners of properties that are subject to the master association.~~

~~(g) The master declaration may authorize other real estate to be subjected to the master declaration. The other real estate shall be subjected to the master declaration by an amendment executed by the owner of the other real estate and approved in writing by the person who executed any other person or persons required by the master declaration, if other than the owner of the other real estate and recorded.~~

~~(h) Sections 515B.3-103(a), (b), and (g), 515B.3-108, 515B.3-109, 515B.3-110, and 515B.3-112 shall apply in the conduct of the affairs of a master association. But the rights of voting, notice, and other rights enumerated in those sections apply only to persons who elect or appoint the board of a master association, whether or not those persons are otherwise unit owners within the meaning of this chapter.~~

~~(i) If so provided in the master declaration, a master association may levy assessments for common expenses of the master association against the property subject to the master declaration, and have and foreclose liens securing the assessments. The liens shall have the same priority against secured parties, shall include the same fees and charges, and may be foreclosed in the same manner, as assessment liens under section 515B.3-116. The master association's lien shall have priority as against the lien of an association or property owner's association subject to the master association, regardless of when the lien arose or was perfected.~~

~~(1) Master association common expenses shall be allocated among the members of the master association in a fair and equitable manner. If the members are include associations or property~~

~~owners' owner's~~ associations, then the master assessments may be allocated among and levied against the associations or property owner's associations, or allocated among and levied directly against the units or other parcels of real estate owned by the members of the association or property owner's association. If so provided in the master declaration, master assessments levied against a member association or property owner's association are allocated among and levied against the units or other parcels of real estate owned by the members of the association or property owner's association. If applicable and appropriate, the formulas and principles described in section 515B.2-108, subsections (b), (c), (d), and (e), shall be used in making the allocations. The assessment formulas and procedures described in the declarations of any common interest communities or any instruments governing other real estate subject to the master association shall not conflict with the formulas and procedures described in the master declaration.

(2) The master declaration may exempt from liability for all or a portion of master association assessments any person authorized by subsection (c)(3) to appoint the members of the master association board for master association common expenses, or any other person, and exempt any unit or other parcel of real estate owned by the person from a lien for such common expenses assessments, until a dwelling building constituting or located within the unit or other parcel of real estate is substantially completed. Substantial completion shall be evidenced by a certificate of occupancy in a jurisdiction that issues that certificate.

(j) A master association shall not be used, directly or indirectly, to avoid or nullify any warranties or other obligations for which a declarant of a common interest community subject to the master association is responsible, or to otherwise avoid the requirements of this chapter.

Sec. 18. Minnesota Statutes 2004, section 515B.2-123, is amended to read:

515B.2-123 [CHANGE OF FORM OF COMMON INTEREST COMMUNITY.]

(a) The legal form of a condominium, planned community or cooperative subject to this chapter may be changed to a condominium or planned community, subject to any requirements contained in the declaration or bylaws of the common interest community, and the following requirements:

(1) Subject to paragraphs (2) and (3), the change of form shall be approved in writing by the unit owners of units to which at least 80 percent of the votes in the association are allocated, and 80 percent of the first mortgagees of record of the units (each mortgagee having one vote per unit financed). The declaration or bylaws may specify a smaller percentage only if all of the units are restricted to nonresidential use. ~~The approval shall include the approval of~~ A declaration and bylaws satisfying the requirements of complying with this chapter shall be approved, subject to the foregoing approval standards, with respect to the new common interest community.

(2) If the period of declarant control has not expired, the change of form shall also be approved in writing by the declarant.

(3) If the existing common interest community is a cooperative, the change of form shall also be approved in writing by (i) each holder of a blanket mortgage of record and (ii) 80 percent of the secured parties holding interests in share loans encumbering the cooperative units or memberships (each secured party having one vote per share loan owned).

(b) Upon approval as provided in subsection (a), the association in the existing common interest community shall have authority to execute the declaration of the new common interest community on behalf of the unit owners of, and all other persons holding an interest in, the units or other property which is a part of the existing common interest community, and to do all other acts necessary to create the new common interest community.

(c) Upon approval as provided in subsection (a), the association in the existing common interest community shall have a power of attorney coupled with an interest to effect the conveyance of the units or any other real estate owned by the unit owners or the association, which is a part of the existing common interest community, on behalf of the unit owners and all other holders of interests in the common interest community, including without limitation the power to execute all instruments of conveyance and related instruments.

(d) In a change of legal form under this section, the offer, conveyance or exchange of a unit in the new common interest community to or with the person owning the unit in the existing common interest community shall not be subject to article 4 of this chapter.

(e) A change of legal form under this section shall not affect any preexisting obligations or liabilities of a declarant under any statute, or under the disclosure statement, declaration or bylaws of the existing common interest community. The declarant of the existing common interest community shall continue to have the rights and obligations of a declarant with respect to the offer and sale of units owned by it or its affiliates in the new common interest community.

Sec. 19. Minnesota Statutes 2004, section 515B.2-124, is amended to read:

515B.2-124 [SEVERANCE OF COMMON INTEREST COMMUNITY.]

(a) Unless the declaration provides otherwise, a part of a common interest community containing one or more units, with or without common elements, may be severed from the common interest community, subject to the requirements of this section. Subject to any additional requirements contained in the declaration, the severance shall be approved in a written severance agreement ~~satisfying the requirements of~~ complying with this section, executed by:

(1) unit owners entitled to cast at least 67 percent of the votes in the association, which approval shall include the approval of unit owners entitled to cast a majority of the votes allocated to units in the remaining common interest community and the approval of unit owners entitled to cast a majority of the votes allocated to units in the part of the common interest community being severed;

(2) declarant until the earlier of five years after the recording of the declaration or the time at which declarant no longer owns an unsold unit; and

(3) in the case of a cooperative, all holders of mortgages or contracts for deed on the entire real estate constituting the cooperative.

(b) The declaration may specify a smaller percentage for unit owner approval only if all of the units are restricted to nonresidential use.

(c) The severance agreement shall specify a severance date by which the severance of the common interest community shall be accomplished, after which the severance agreement is void. The severance agreement shall be deemed to grant to the association a power of attorney coupled with an interest to effect the severance of the common interest community on behalf of the unit owners and the holders of all other interests in the units, including without limit the power to execute the amendment to the declaration, any instruments of conveyance, and all related instruments.

(d) The severance agreement shall:

(1) Approve an amendment to the declaration complying with this chapter, in substantially the same form to be recorded, which, at a minimum (i) legally describes the real estate constituting the remaining common interest community and the real estate being severed, (ii) restates the number of units in the remaining common interest community, (iii) reallocates the interests of the unit owners in the remaining common interest community among the remaining units in accordance with the allocation formula set forth in the declaration, and (iv) recites any easements to which the severed portion of the common interest community remains subject.

(2) Approve an amendment to the articles of incorporation and bylaws of the remaining common interest community, if necessary.

(3) Authorize the association to execute and record the amended declaration, articles of incorporation or bylaws on behalf of the unit owners and all other persons holding an interest in the remaining common interest community, and to take other actions necessary to accomplish the severance of the common interest community.

(4) Allocate the assets and liabilities of the association between the association and (i) a new association formed pursuant to subsection (g), or (ii) the owners of the units being severed, subject to a lien against their interest in the severed real estate or their share in the assets of the association in favor of any person that held a security interest in their unit.

(5) If the units that are being severed from the common interest community will not be included in a new common interest community that is (i) formed simultaneously with the severance of the common interest community, and (ii) includes all of the units and substantially all of the common elements being severed, then the agreement shall contain the written consent of holders of first mortgages on all units that are being severed, and shall describe in detail the proposed disposition of all real estate to be severed and all assets of the association allocated to the severed units, and the distribution of the proceeds of the disposition, if any.

(e) The severance agreement or a memorandum of it shall be recorded in every county in which a part of the common interest community is located. The recording of the severance agreement or memorandum of it shall, from the date of recording, constitute notice to all persons subsequently acquiring an interest in the common interest community that the common interest community is being severed, and that those persons acquire their interests subject to the terms and conditions contained in the severance agreement and the amendment to the declaration.

(f) The amendment to the declaration of the remaining common interest community shall be recorded on or before the severance date or the severance agreement and the amendment to the declaration is void as of the day after the severance date. The recording of the amendment to the declaration shall complete the severance of the common interest community and release the severed part of the common interest community from the declaration without further action by any person.

(g) If the unit owners whose units are being severed from the common interest community intend to form a new common interest community, then said unit owners shall ~~unanimously~~, by at least 80 percent of the votes allocated by the existing declaration to said units, approve a new declaration, articles of incorporation and bylaws to govern the new common interest community no later than 60 days before the effective date of the severance. ~~The new declaration creating the new common interest community shall be recorded simultaneously with the amendment to the existing declaration. No later than 30 days before after the effective date of the severance agreement, the unit owners shall cause articles of incorporation creating the association governing intended to govern the new common interest community to be created by filing the articles of incorporation of the association shall be filed with the secretary of state and promptly thereafter the unit owners whose units are being severed shall elect a board of directors to act on behalf of the new association. The board of directors of the new association shall coordinate the completion of the severance cooperate with the board of directors of the existing association to complete the severance.~~ The existing association shall retain all authority to act on behalf of the common interest community until the amendment to the existing declaration is and the new declaration are recorded.

(h) The legal descriptions of the real estate constituting (i) the remaining common interest community, and (ii) the severed portion of the common interest community shall, at the time of recording of the amendment to the declaration referred to in subsection (e), be as follows:

(1) In a planned community using a CIC plat that complies with section 515B.2-110, subsection (d), the lot and block descriptions contained in the CIC plat, and any amendments to it, with respect to (i) the remaining common interest community, and (ii) the severed portion of the common interest community.

(2) In a condominium, or cooperative or planned community using a CIC plat that complies with section 515B.2-110, subsection (c), (i) the CIC plat description relating to the remaining common interest community, and (ii) the part of the underlying legal description of the real estate in the declaration creating the common interest community, and any amendments to it, relating to the severed part of the common interest community.

(3) The recording officer for each county in which the common interest community is located

shall index the property located in that county in its records under the legal descriptions required by this subsection as of the date of recording of the amendment to the declaration. In the case of registered property, the registrar of titles shall cancel the existing certificates of title for the severed part of the common interest community and issue certificates of title for the property using the legal descriptions required by this subsection.

(i) In a condominium or planned community, if the severed part of the common interest community is not to be reconstituted as a new common interest community following severance, title to the common elements and, in a common interest community in which all units have upper and lower boundaries described in the declaration title to all the real estate in the severed part of the common interest community, vests in the unit owners of the units being severed, upon severance, as tenants in common in proportion to their respective allocated interests in the declaration, and liens on the units shift accordingly. While the tenancy in common exists, each unit owner and the unit owner's successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the unit, and a nonexclusive easement across, over and under any common elements contained in the severed portion of the common interest community for enjoyment, access, utilities, communication services, and other essential services, as applicable.

(j) No common interest community shall be severed in such a manner as to materially impair access, utility services, communication services, or other essential services with respect to either the remaining common interest community or the severed part of the common interest community.

Sec. 20. Minnesota Statutes 2004, section 515B.3-101, is amended to read:

515B.3-101 [ORGANIZATION OF UNIT OWNERS' ASSOCIATION.]

A common interest community shall be administered by ~~a unit owners'~~ an association. The ~~unit owners'~~ association shall be incorporated no later than the date the common interest community is created. The membership of the association at all times consists exclusively of all unit owners or, following termination of the common interest community, of all former unit owners entitled to distributions of proceeds under section 515B.2-119 or their heirs, successors, or assigns. The association shall be organized as a Minnesota profit or nonprofit corporation, or may, in the case of a cooperative, be organized under chapter 308A. In the event of a conflict between this chapter and any other chapter under which the association is incorporated, this chapter shall control.

Sec. 21. Minnesota Statutes 2004, section 515B.3-102, is amended to read:

515B.3-102 [POWERS OF UNIT OWNERS' ASSOCIATION.]

(a) Except as provided in subsection (b), and subject to the provisions of the declaration or bylaws, the association shall have the power to:

(1) adopt, amend and revoke rules and regulations not inconsistent with the articles of incorporation, bylaws and declaration, as follows: (i) regulating the use of the common elements; (ii) regulating the use of the units, and conduct of unit occupants, which may jeopardize the health, safety or welfare of other occupants, which involves noise or other disturbing activity, or which may damage the common elements or other units; (iii) regulating or prohibiting animals; (iv) regulating changes in the appearance of the common elements and conduct which may damage the common interest community; (v) regulating the exterior appearance of the common interest community, including, for example, balconies and patios, window treatments, and signs and other displays, regardless of whether inside a unit; (vi) implementing the articles of incorporation, declaration and bylaws, and exercising the powers granted by this section; and (vii) otherwise facilitating the operation of the common interest community;

(2) adopt and amend budgets for revenues, expenditures and reserves, and levy and collect assessments for common expenses from unit owners;

(3) hire and discharge managing agents and other employees, agents, and independent contractors;

(4) institute, defend, or intervene in litigation or administrative proceedings (i) in its own name on behalf of itself or two or more unit owners on matters affecting the common elements or other matters affecting the common interest community or, (ii) with the consent of the owners of the affected units on matters affecting only those units;

(5) make contracts and incur liabilities;

(6) regulate the use, maintenance, repair, replacement, and modification of the common elements and the units;

(7) cause improvements to be made as a part of the common elements, and, in the case of a cooperative, the units;

(8) acquire, hold, encumber, and convey in its own name any right, title, or interest to real estate or personal property, but (i) common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to section 515B.3-112, or (ii) part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to section 515B.3-112;

(9) ~~grant easements for public utility easements utilities, public rights-of-way or other public purposes, and cable television or other communications, through, over or under the common elements;~~ grant easements, leases, or licenses to unit owners for purposes authorized by the declaration; and, subject to approval by resolution of unit owners other than declarant or its affiliates at a meeting duly called, grant other public or private easements, leases, and licenses through, over or under the common elements;

(10) impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements, other than limited common elements, and for services provided to unit owners;

(11) impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association;

(12) impose reasonable charges for the review, preparation and recordation of amendments to the declaration, resale certificates required by section 515B.4-107, statements of unpaid assessments, or furnishing copies of association records;

(13) provide for the indemnification of its officers and directors, and maintain directors' and officers' liability insurance;

(14) provide for reasonable procedures governing the conduct of meetings and election of directors;

(15) exercise any other powers conferred by law, or by the declaration, articles of incorporation or bylaws; and

(16) exercise any other powers necessary and proper for the governance and operation of the association.

(b) Notwithstanding subsection (a) the declaration or bylaws may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

Sec. 22. Minnesota Statutes 2004, section 515B.3-103, is amended to read:

515B.3-103 [DUTY OF BOARD OF DIRECTORS, OFFICERS DURING, AFTER AND DECLARANT CONTROL.]

(a) An association shall be governed by a board of directors. Except as expressly prohibited by the declaration, the articles of incorporation, bylaws, subsection (b), or other provisions of this chapter, the board may act in all instances on behalf of the association. In the performance of their duties, the officers and directors are required to exercise (i) if appointed by the declarant, the care

required of fiduciaries of the unit owners and (ii) if elected by the unit owners, the care required of a director by section 302A.251 or 317A.251, as applicable.

(b) The board may not act unilaterally to amend the declaration, to terminate the common interest community, to elect directors to the board, or to determine the qualifications, powers and duties, or terms of office of directors, but the board may fill vacancies in its membership created other than by removal by the vote of the association members for the unexpired portion of any term.

(c) ~~Subject to subsection (d),~~ The declaration may provide for a period of declarant control of the association, during which a declarant, or persons designated by the declarant, may appoint and remove the officers and directors of the association. ~~The maximum period of declarant control may extend from begins on the date of the first conveyance of a unit to a unit owner other than a declarant for a period not exceeding~~ creation of the common interest community and terminates upon the earliest of the following events: (i) five years after the date of the first conveyance of a unit to a unit owner other than a declarant in the case of a flexible common interest community or three years in the case of any other common interest community. ~~Regardless of any longer period provided in the declaration or elsewhere, a period of declarant control shall terminate upon the earlier of (i) surrender of control by the declarant or (ii) 60 days after, (ii) the declarant's voluntary surrender of control by giving written notice to the unit owners pursuant to section 515B.1-115, or (iii) the conveyance of 75 percent of the units to unit owners other than a declarant.~~

(d) ~~Not later than 60 days after conveyance of~~ The board shall cause a meeting of the unit owners to be called, as follows:

(1) If the period of declarant control has terminated pursuant to subsection (c), a meeting of the unit owners shall be called and held within 60 days after said termination, at which the board shall be elected by all unit owners, including declarant, subject to the requirements of subsection (e).

(2) If 50 percent of the units that may be created to unit owners other than a declarant or an affiliate of a declarant, a meeting of the unit owners shall be held a declarant is authorized by the declaration to create have been conveyed prior to the termination of the declarant control period, a meeting of the unit owners shall be called and held within 60 days thereafter, at which not less than 33-1/3 percent of the members of the board shall be elected by unit owners other than a declarant or an affiliate of a declarant.

(e) Following the termination of any period of declarant control, the unit owners shall elect the board. All unit owners, including the declarant and its affiliates, may cast the votes allocated to any units owned by them. The board shall thereafter be subject to the following requirements.

(1) A majority of the directors shall be unit owners other than a declarant or an affiliate of a declarant, or a natural person designated by a unit owner that is not a natural person. The remaining directors need not be unit owners unless required by the articles of incorporation or bylaws.

(2) Subject to the requirements of subsection (1), the articles of incorporation or bylaws may authorize (i) the appointment or election of one director, who need not be a unit owner, by a declarant or by a person or persons other than a unit owner, (ii) classes of directors, and (iii) the election of certain directors by unit owners of a certain class or classes of units. The articles of incorporation or bylaws shall not be amended to change or terminate the authorization described in (i) without the written consent of the declarant or other person possessing the power to appoint or elect.

(3) Subject to the requirements of subsection (1), if separate classes of directors are authorized under subsection (2), the articles of incorporation or bylaws may authorize class voting by classes of directors on specified issues affecting only a certain class of units, or to protect the legitimate interests of the class. A person shall not use special class voting to evade any limit imposed on declarants by this chapter.

(4) The board shall elect the officers. The directors and officers shall take office upon election.

(f) In determining whether the period of declarant control has terminated under subsection (c), or whether unit owners other than a declarant are entitled to elect members of the board of directors under subsection (d), the percentage of the units ~~which has been conveyed~~ shall be calculated ~~based upon the assumption that all units which the declarant has built or reserved the right to build in the declaration are included in the common interest community using as a numerator the number of units conveyed and as a denominator the number of units subject to the declaration plus the number of units which the declarant is authorized by the declaration to create on any additional real estate.~~ The percentages referred to in subsections (c) and (d) shall be calculated without reference to units that are auxiliary to other units, such as garage units or storage units. A person shall not use a master association or other device to evade the requirements of this section.

(g) Except as otherwise provided in this subsection, meetings of the board of directors must be open to the unit owners. To the extent practicable, the board shall give reasonable notice to the unit owners of the date, time, and place of a board meeting. If the date, time, and place of meetings are provided for in the declaration, articles, or bylaws, announced at a previous meeting of the board, posted in a location accessible to the unit owners and designated by the board from time to time, or if an emergency requires immediate consideration of a matter by the board, notice is not required. "Notice" has the meaning given in section 317A.011, subdivision 14. Meetings may be closed to discuss the following:

(1) personnel matters;

(2) pending or potential litigation, arbitration or other potentially adversarial proceedings, between unit owners, between the board or association and unit owners, or other matters in which any unit owner may have an adversarial interest, if the board determines that closing the meeting is necessary to discuss strategy or to otherwise protect the position of the board or association or the privacy of a unit owner or occupant of a unit; or

(3) criminal activity arising within the common interest community if the board determines that closing the meeting is necessary to protect the privacy of the victim or that opening the meeting would jeopardize investigation of the activity.

Nothing in this subsection imposes a duty on the board to provide special facilities for meetings. The failure to give notice as required by this subsection shall not invalidate the board meeting or any action taken at the meeting. The minutes of any part of a meeting that is closed under this subsection may be kept confidential at the discretion of the board.

Sec. 23. Minnesota Statutes 2004, section 515B.3-105, is amended to read:

515B.3-105 [TERMINATION OF DECLARANT'S CONTRACTS, LEASES.]

(a) If entered into prior to ~~expiration~~ termination of the period of declarant control ~~pursuant to section 515B.3-103,~~ (i) any management contract, employment contract, or lease of recreational facilities, ~~units,~~ or garages or other parking facilities, (ii) any contract, lease, or license binding the association, and to which a declarant or an affiliate of a declarant is a party, or (iii) any contract, lease or license binding the association or any unit owner other than the declarant or an affiliate of the declarant which is not bona fide or which was unconscionable to the unit owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the association ~~at any time after the expiration of declarant control upon not less than 90 days' notice to the other party~~ under the procedures described in this section.

(b) ~~If, during~~ prior to expiration of the suspension period described in section 515B.2-121, subsection (c), paragraph (3), a contract, lease, or license of a type described in ~~this section~~ subsection (a) is entered into by a person having authority to appoint the directors of the master association and is binding upon a the master association, then the master association, and not any association, may terminate the contract, lease, or license under the procedures described in this section.

(c) Termination shall be upon no less than 90 days' notice. Notice of termination shall be given

by the association or master association, as applicable, in accordance with section 515B.1-115; provided, that notice shall be effective only if given within two years following the termination of the period of declarant control or the suspension period described in section 515B.2-121, subsection (c), paragraph (3), as applicable.

(d) This section does not apply to (i):

(1) any lease the termination of which would terminate the common interest community; ~~(ii) a proprietary lease, or (iii);~~

(2) in the case of a cooperative, a mortgage or contract for deed encumbering all real estate ~~constituting the common interest community.~~ owned by the association, except that if the mortgage or contract for deed contains a contractual obligation involving a type of contract, lease, or license which may be terminated pursuant to subsection (a) or (b), then that contractual obligation may be terminated pursuant to subsection (c); or

(3) an agreement between a declarant or an affiliate of a declarant, or a person having authority pursuant to section 515B.2-121(c)(3) to appoint the directors of the master association, and any governmental entity, if such agreement is necessary to obtain governmental approvals, provide financing under any type of government program, or provide for governmentally required access, conservation, drainage, or utilities.

Sec. 24. Minnesota Statutes 2004, section 515B.3-106, is amended to read:

515B.3-106 [BYLAWS; ANNUAL REPORT.]

(a) A common interest community shall have bylaws which comply with this chapter and ~~the requirements of~~ the statute under which the association is incorporated. The bylaws and any amendments may be recorded, but need not be recorded to be effective unless so provided in the bylaws.

(b) The bylaws shall provide that, in addition to any statutory requirements:

(1) A meeting of the members shall be held at least once each year, and a specified officer of the association shall give notice of the meeting as provided in section 515B.3-108.

(2) An annual report shall be prepared by the association and a copy of the report shall be provided to each unit owner at or prior to the annual meeting.

(c) The annual report shall contain at a minimum:

(1) a statement of any capital expenditures in excess of two percent of the current budget or \$5,000, whichever is greater, approved by the association for the current fiscal year or succeeding two fiscal years;

(2) a statement of the balance in any reserve or replacement fund;

(3) a copy of the statement of revenues and expenses for the association's last fiscal year, and a balance sheet as of the end of said fiscal year;

(4) a statement of the status of any pending litigation or judgments to which the association is a party;

(5) a detailed description of the insurance coverage provided by the association including a statement as to which, if any, of the items referred to in section 515B.3-113, subsection (b), are insured by the association; and

(6) a statement of the total past due assessments on all units, current as of not more than 60 days prior to the date of the meeting.

Sec. 25. Minnesota Statutes 2004, section 515B.3-110, is amended to read:

515B.3-110 [VOTING; PROXIES.]

(a) At any meeting of the association an owner or the holder of the owner's proxy shall be entitled to cast the vote which is allocated to the unit. If there is more than one owner of a unit, only one of the owners may cast the vote. If the owners of a unit fail to agree and notify the association as to who shall cast the vote, the vote shall not be cast. Any provision in the articles of incorporation, bylaws, declaration, or other document restricting a unit owner's right to vote, or affecting quorum requirements, by reason of nonpayment of assessments, or a purported violation of any provision of the documents governing the common interest community, shall be void.

(b) If permitted by the articles or bylaws, votes allocated to a unit may be cast pursuant to a proxy executed by the unit owner entitled to cast the vote for that unit. The board may specify the form of proxy and proxy rules, consistent with law.

(c) The entire vote on any single issue (except the election of directors), may be by mailed ballots, subject to (i) any prohibition or requirement contained in the articles of incorporation, bylaws, or declaration and (ii) any requirements of the statute under which the association is created. Such a vote shall have the force and effect of a vote taken at a meeting; provided, that the total votes cast are at least equal to the votes required for a quorum. The board shall set a voting period within which the ballots must be returned, which period shall be not less than ten nor more than 30 days after the date of mailing or hand delivery of the ballots to the owners. The board of directors shall provide written notice of the results of the vote to the members within 30 days after the expiration of the voting period. All requirements in this chapter, the declaration or the bylaws for a meeting of the members, or being present in person, shall be deemed satisfied by a vote taken by mail in compliance with the requirements of this section.

(d) The articles of incorporation or bylaws may authorize class voting by unit owners for directors or on specified issues affecting the class. Class voting may only be used to address operational, physical, or administrative differences within the common interest community. A declarant shall not use class voting to evade any limit imposed on declarants by this chapter and units shall not constitute a class because they are owned by a declarant.

(e) The declaration or bylaws may provide that votes on specified matters affecting the common interest community be cast by lessees or secured parties rather than unit owners; provided that (i) the provisions of subsections (a), (b), and (c) apply to those persons as if they were unit owners; (ii) unit owners who have so delegated their votes to other persons may not cast votes on those specified matters; (iii) lessees or secured parties are entitled to notice of meetings, access to records, and other rights respecting those matters as if they were unit owners, and (iv) the lessee or secured party has filed satisfactory evidence of its interest with the secretary of the association prior to the meeting. Unit owners must also be given notice, in the manner provided in section 515B.3-108(b), of meetings at which lessees or secured parties are entitled to vote.

(f) No votes allocated to a unit owned by the association may be cast nor counted toward a quorum.

Sec. 26. Minnesota Statutes 2004, section 515B.3-112, is amended to read:

515B.3-112 [CONVEYANCE OR ENCUMBRANCE OF, OR CREATION OF SECURITY INTERESTS IN, COMMON ELEMENTS.]

(a) In a condominium or planned community, unless the declaration provides otherwise, portions of the common elements may be conveyed or subjected to a security interest by the association if persons entitled to cast at least 67 percent of the votes in the association, including 67 percent of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, approve that action in writing or at a meeting; but all unit owners of units to which any limited common element is allocated must agree in order to convey that limited common element or subject it to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted to nonresidential use.

(b) In a cooperative, unless the declaration provides otherwise, part of a cooperative may be

conveyed, or all or a part subjected to a security interest, by the association if persons entitled to cast at least 67 percent of the votes in the association, including 67 percent of the votes allocated to units in which the declarant has no interest, or any larger percentage the declaration specifies, approves that action in writing or at a meeting. If fewer than all of the units or limited common elements are to be conveyed or subjected to a security interest, then all unit owners of those units, or the units to which those limited common elements are allocated, must agree in order to convey those units or limited common elements or subject them to a security interest. The declaration may specify a smaller percentage only if all of the units are restricted to nonresidential use. Any purported conveyance or other voluntary transfer of an entire cooperative is void, unless made pursuant to section 515B.2-119.

(c) The association, on behalf of the unit owners, may contract to convey or encumber an interest in the common elements of a common interest community pursuant to this subsection, subject to the required approval. After the approval has been obtained, the association shall have a power of attorney coupled with an interest to effect the conveyance or encumbrance on behalf of all unit owners in the common interest community, including the power to execute deeds, mortgages, or other instruments of conveyance or security. The instrument conveying or creating the interest in the common interest community shall be recorded and shall include as exhibits (i) an affidavit of the secretary of the association certifying that the approval required by this section has been obtained and (ii) a schedule of the names of all unit owners and units in the common interest community as of the date of the approval.

(d) ~~Except as provided in section 515B.3-102(a)(9),~~ Unless made pursuant to this section, any purported conveyance, encumbrance, creation of a security interest in or other voluntary transfer of any interest in the common elements, or of any part of a cooperative, is void. The grant of an easement, lease, or license pursuant to section 515B.3-102(a)(9) is not subject to this section.

(e) In the case of a conveyance involving a condominium, a planned community utilizing a CIC plat complying with section 515B.2-110(c), or a cooperative in which the unit owners' interests are characterized as real estate, the association shall record, simultaneously with the recording of the instrument of conveyance, an amended CIC plat showing the real estate constituting the common interest community exclusive of the real estate conveyed. In all common interest communities, upon recording of the instrument of conveyance, the declaration, and all rights and obligations arising therefrom, shall be deemed released and terminated as to the real estate conveyed.

(f) A conveyance or encumbrance of common elements, or of a cooperative, pursuant to this section shall not deprive any unit of its rights of support, reasonable access or utility services.

(g) Except as provided in subsection (a), or unless the declaration otherwise provides, a conveyance or encumbrance of common elements pursuant to this section does not affect the priority or validity of preexisting encumbrances.

(h) Any proceeds of the conveyance or creation of a security interest under this section are an asset of the association.

(i) This section shall not apply to any conveyance or encumbrance of any interest in a proprietary lease.

Sec. 27. Minnesota Statutes 2004, section 515B.3-113, is amended to read:

515B.3-113 [INSURANCE.]

(a) Commencing not later than the time of the first conveyance of a unit to a unit owner other than a declarant, the association shall maintain, to the extent reasonably available:

(1) subject to subsection (b), property insurance (i) on the common elements and, in a planned community, also on property that must become common elements, (ii) for broad form covered causes of loss, and (iii) in a total amount of not less than the full insurable replacement cost of the insured property, less deductibles, at the time the insurance is purchased and at each renewal date, exclusive of items normally excluded from property policies; and

(2) commercial general liability insurance against claims and liabilities arising in connection with the ownership, existence, use or management of the property in an amount, if any, specified by the common interest community instruments or otherwise deemed sufficient in the judgment of the board, insuring the board, the association, the management agent, and their respective employees, agents and all persons acting as agents. The declarant shall be included as an additional insured in its capacity as a unit owner or board member. The unit owners shall be included as additional insureds but only for claims and liabilities arising in connection with the ownership, existence, use or management of the common elements. The insurance shall cover claims of one or more insured parties against other insured parties.

(b) In the case of a common interest community that contains units, or structures within units, sharing or having contiguous walls, siding or roofs, the insurance maintained under subsection (a)(1) shall include those units, or structures within those units, and the common elements. The insurance need not cover the following items within the units: (i) ceiling or wall finishing materials, (ii) floor coverings, (iii) cabinetry, (iv) finished millwork, (v) electrical or plumbing fixtures serving a single unit, (vi) built-in appliances, or (vii) other improvements and betterments, regardless of when installed. If any improvements and betterments are covered, any increased cost may be assessed by the association against the units affected. The association may, in the case of a claim for damage to a unit or units, (i) pay the deductible amount as a common expense, (ii) assess the deductible amount against the units affected in any reasonable manner, or (iii) require the unit owners of the units affected to pay the deductible amount directly.

(c) If the insurance described in subsections (a) and (b) is not reasonably available, the association shall promptly cause notice of that fact to be hand delivered or sent prepaid by United States mail to all unit owners. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance it considers appropriate to protect the association, the unit owners or officers, directors or agents of the association.

(d) Insurance policies carried pursuant to subsections (a) and (b) shall provide that:

(1) each unit owner and secured party is an insured person under the policy with respect to liability arising out of the unit owner's interest in the common elements or membership in the association;

(2) the insurer waives its right to subrogation under the policy against any unit owner of the condominium or members of the unit owner's household and against the association and members of the board of directors;

(3) no act or omission by any unit owner or secured party, unless acting within the scope of authority on behalf of the association, shall void the policy or be a condition to recovery under the policy; and

(4) if at the time of a loss under the policy there is other insurance in the name of a unit owner covering the same property covered by the policy, the association's policy is primary insurance.

(e) Any loss covered by the property policy under subsection (a)(1) shall be adjusted by and with the association. The insurance proceeds for that loss shall be payable to the association, or to an insurance trustee designated by the association for that purpose. The insurance trustee or the association shall hold any insurance proceeds in trust for unit owners and secured parties as their interests may appear. The proceeds shall be disbursed first for the repair or restoration of the damaged common elements and units. ~~Unit owners and secured parties are not entitled to receive any portion of the proceeds unless~~ If there is a surplus of proceeds after the common elements and units have been completely repaired or restored or the common interest community is terminated, the board of directors may retain the surplus for use by the association or distribute the surplus among the owners on an equitable basis as determined by the board.

(f) Unit owners may obtain insurance for personal benefit in addition to insurance carried by the association.

(g) An insurer that has issued an insurance policy under this section shall issue certificates or

memoranda of insurance, upon request, to any unit owner or secured party. The insurance may not be canceled until 60 days after notice of the proposed cancellation has been mailed to the association, each unit owner and each secured party for an obligation to whom certificates of insurance have been issued.

(h) Any portion of the common interest community which is damaged or destroyed as the result of a loss covered by the association's insurance shall be promptly repaired or replaced by the association unless (i) the common interest community is terminated and the association votes not to repair or replace all or part thereof, (ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (iii) 80 percent of the unit owners, including every unit owner and holder of a first mortgage on a unit or assigned limited common element which will not be rebuilt, vote not to rebuild. Subject to subsection (b), the cost of repair or replacement of the common elements in excess of insurance proceeds and reserves shall be paid as a common expense, and the cost of repair of a unit in excess of insurance proceeds shall be paid by the respective unit owner.

(i) If less than the entire common interest community is repaired or replaced, (i) the insurance proceeds attributable to the damaged common elements shall be used to restore the damaged area to a condition compatible with the remainder of the common interest community, (ii) the insurance proceeds attributable to units and limited common elements which are not rebuilt shall be distributed to the owners of those units, including units to which the limited common elements were assigned, and the secured parties of those units, as their interests may appear, and (iii) the remainder of the proceeds shall be distributed to all the unit owners and secured parties as their interests may appear in proportion to their common element interest in the case of a condominium or in proportion to their common expense liability in the case of a planned community or cooperative.

(j) If the unit owners and holders of first mortgages vote not to rebuild a unit, that unit's entire common element interest, votes in the association, and common expense liability are automatically reallocated upon the vote as if the unit had been condemned under section 515B.1-107, and the association shall promptly prepare, execute and record an amendment to the declaration reflecting the reallocations. Notwithstanding the provisions of this subsection, if the common interest community is terminated, insurance proceeds not used for repair or replacement shall be distributed in the same manner as sales proceeds pursuant to section 515B.2-119.

(k) The provisions of this section may be varied or waived in the case of a common interest community in which all units are restricted to nonresidential use.

Sec. 28. Minnesota Statutes 2004, section 515B.3-114, is amended to read:

515B.3-114 [RESERVES; SURPLUS FUNDS.]

(a) The annual budgets of the association shall provide from year to year, on a cumulative basis, for adequate reserve funds to cover the replacement of those parts of the common elements and limited common elements interest community which the association is obligated to ~~maintain, repair, or replace~~. These reserve requirements shall not apply to a common interest community which is restricted to nonresidential use.

(b) Unless the declaration provides otherwise, any surplus funds that the association has remaining after payment of or provision for common expenses and reserves shall be (i) credited to the unit owners to reduce their future common expense assessments or (ii) credited to reserves, or any combination thereof, as determined by the board of directors.

Sec. 29. Minnesota Statutes 2004, section 515B.3-115, is amended to read:

515B.3-115 [ASSESSMENTS FOR COMMON EXPENSES.]

(a) The obligation of a unit owner to pay common expense assessments shall be as follows:

(1) If a common expense assessment has not been levied, the declarant shall pay all accrued operating expenses of the common interest community, and shall fund the replacement reserve component of the common expenses as required by subsection (b).

(2) If a common expense assessment has been levied, all unit owners including the declarant shall pay the assessments allocated to their units, subject to ~~subsection (b)~~. the following:

(i) If the declaration so provides, a declarant's liability, and the assessment lien, for the common expense assessments, exclusive of replacement reserves, on any unit owned by the declarant may be limited to 25 percent or more of any assessment, exclusive of replacement reserves, until the unit or any building located in the unit is substantially completed. Substantial completion shall be evidenced by a certificate of occupancy in any jurisdiction that issues the certificate.

(ii) If the declaration provides for a reduced assessment pursuant to paragraph (2)(i), the declarant shall be obligated, within 60 days following the termination of the period of the declarant control, to make up any operating deficit incurred by the association during the period of declarant control.

~~(3) Notwithstanding subsections (a)(1), (a)(2), and (b), if the association maintains the exteriors of the buildings constituting or contained within the units, that part of any assessment that is allocated to replacement reserves referred to in section 515B.3-114 shall be fully levied against a unit, including any unit owned by a declarant, on the earlier of substantial completion of the exterior of (i) the building containing the unit or (ii) any building located within the unit.~~

~~(b) Subject to subsection (a)(3), if the declaration so provides, a declarant's liability, and the assessment lien, for assessments, other than replacement reserves, on any unit owned by the declarant may be limited to 25 percent or any greater percentage of any assessment levied, until the unit or any building located in it. The replacement reserve component of the common expenses shall be funded for each unit in accordance with the projected annual budget required by section 515B.4-102(23); provided, that the funding of replacement reserves with respect to a unit shall commence no later than the date that the unit or any building located within the unit boundaries is substantially completed. Substantial completion shall be evidenced by a certificate of occupancy in any jurisdiction that issues the certificate.~~

~~(c) After an assessment has been levied by the association, assessments shall be levied at least annually, based upon a budget approved at least annually by the association.~~

~~(d) Except as modified by subsections (a)(1) and (2), (e), (f), and (g), all common expenses shall be assessed against all the units in accordance with the allocations established by the declaration pursuant to section 515B.2-108.~~

~~(e) Unless otherwise required by the declaration:~~

~~(1) any common expense associated with the maintenance, repair, or replacement of a limited common element shall be assessed against the units to which that limited common element is assigned, equally, or in any other proportion the declaration provides;~~

~~(2) any common expense or portion thereof benefiting fewer than all of the units may be assessed exclusively against the units benefited, equally, or in any other proportion the declaration provides;~~

~~(3) the costs of insurance may be assessed in proportion to risk or coverage, and the costs of utilities may be assessed in proportion to usage;~~

~~(4) reasonable attorneys fees and costs incurred by the association in connection with (i) the collection of assessments and, (ii) the enforcement of this chapter, the articles, bylaws, declaration, or rules and regulations, against a unit owner, may be assessed against the unit owner's unit; and~~

~~(5) fees, charges, late charges, fines and interest may be assessed as provided in section 515B.3-116(a).~~

~~(f) Assessments levied under section 515B.3-116 to pay a judgment against the association may be levied only against the units in the common interest community at the time the judgment was entered, in proportion to their common expense liabilities.~~

(g) If any damage to the common elements or another unit is caused by the act or omission of any unit owner, or occupant of a unit, or their invitees, the association may assess the costs of repairing the damage exclusively against the unit owner's unit to the extent not covered by insurance.

(h) Subject to any shorter period specified by the declaration or bylaws, if any installment of an assessment becomes more than 60 days past due, then the association may, upon ten days' written notice to the unit owner, declare the entire amount of the assessment immediately due and payable in full.

(i) If common expense liabilities are reallocated for any purpose authorized by this chapter, common expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated common expense liabilities.

(j) An assessment against fewer than all of the units must be levied within three years after the event or circumstances forming the basis for the assessment, or shall be barred.

Sec. 30. Minnesota Statutes 2004, section 515B.3-116, is amended to read:

515B.3-116 [LIEN FOR ASSESSMENTS.]

(a) The association has a lien on a unit for any assessment levied against that unit from the time the assessment becomes due. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due. Unless the declaration otherwise provides, fees, charges, late charges, fines and interest charges pursuant to section 515B.3-102(a)(10), (11) and (12) are liens, and are enforceable as assessments, under this section.

(b) A lien under this section is prior to all other liens and encumbrances on a unit except (i) liens and encumbrances recorded before the declaration and, in a cooperative, liens and encumbrances which the association creates, assumes, or takes subject to, (ii) any first mortgage encumbering the fee simple interest in the unit, or, in a cooperative, any first security interest encumbering only the unit owner's interest in the unit, and (iii) liens for real estate taxes and other governmental assessments or charges against the unit, and (iv) a master association lien under section 515B.2-121(i). If a first mortgage on a unit is foreclosed, the first mortgage was recorded after June 1, 1994, and no owner redeems during the owner's period of redemption provided by chapter 580, 581, or 582, the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage shall take title to the unit subject to a lien in favor of the association for unpaid assessments for common expenses levied pursuant to section 515B.3-115(a), (e)(1) to (3), (f), and (i) which became due, without acceleration, during the six months immediately preceding the first day following the end of the owner's period of redemption. If a first security interest encumbering a unit owner's interest in a cooperative unit which is personal property is foreclosed, the secured party or the purchaser at the sale shall take title to the unit subject to unpaid assessments for common expenses levied pursuant to section 515B.3-115(a), (e)(1) to (3), (f), and (i) which became due, without acceleration, during the six months immediately preceding the first day following either the disposition date pursuant to section 336.9-610 or the date on which the obligation of the unit owner is discharged pursuant to section 336.9-622. This subsection shall not affect the priority of mechanics' liens.

(c) Recording of the declaration constitutes record notice and perfection of any lien under this section, and no further recordation of any notice of or claim for the lien is required.

(d) Proceedings to enforce an assessment lien shall be instituted within three years after the last installment of the assessment becomes payable, or shall be barred.

(e) The unit owner of a unit at the time an assessment is due shall be personally liable to the association for payment of the assessment levied against the unit. If there are multiple owners of the unit, they shall be jointly and severally liable.

(f) This section does not prohibit actions to recover sums for which subsection (a) creates a lien nor prohibit an association from taking a deed in lieu of foreclosure. ~~The commencement of an action to recover the sums is not an election of remedies if it is dismissed before commencement of foreclosure of the lien provided for by this section.~~

(g) The association shall furnish to a unit owner or the owner's authorized agent upon written request of the unit owner or the authorized agent a statement setting forth the amount of unpaid assessments currently levied against the owner's unit. If the unit owner's interest is real estate, the statement shall be in recordable form. The statement shall be furnished within ten business days after receipt of the request and is binding on the association and every unit owner.

(h) The association's lien may be foreclosed as provided in this subsection.

(1) In a condominium or planned community, the association's lien may be foreclosed in a like manner as a mortgage containing a power of sale pursuant to chapter 580, or by action pursuant to chapter 581. The association shall have a power of sale to foreclose the lien pursuant to chapter 580.

(2) In a cooperative whose unit owners' interests are real estate, the association's lien shall be foreclosed in a like manner as a mortgage on real estate as provided in paragraph (1).

(3) In a cooperative whose unit owners' interests in the units are personal property, the association's lien shall be foreclosed in a like manner as a security interest under article 9 of chapter 336. In any disposition pursuant to section 336.9-610 or retention pursuant to sections 336.9-620 to 336.9-622, the rights of the parties shall be the same as those provided by law, except (i) notice of sale, disposition, or retention shall be served on the unit owner 90 days prior to sale, disposition, or retention, (ii) the association shall be entitled to its reasonable costs and attorney fees not exceeding the amount provided by section 582.01, subdivision 1a, (iii) the amount of the association's lien shall be deemed to be adequate consideration for the unit subject to disposition or retention, notwithstanding the value of the unit, and (iv) the notice of sale, disposition, or retention shall contain the following statement in capital letters with the name of the association or secured party filled in:

"THIS IS TO INFORM YOU THAT BY THIS NOTICE (fill in name of association or secured party) HAS BEGUN PROCEEDINGS UNDER MINNESOTA STATUTES, CHAPTER 515B, TO FORECLOSE ON YOUR INTEREST IN YOUR UNIT FOR THE REASON SPECIFIED IN THIS NOTICE. YOUR INTEREST IN YOUR UNIT WILL TERMINATE 90 DAYS AFTER SERVICE OF THIS NOTICE ON YOU UNLESS BEFORE THEN:

(a) THE PERSON AUTHORIZED BY (fill in the name of association or secured party) AND DESCRIBED IN THIS NOTICE TO RECEIVE PAYMENTS RECEIVES FROM YOU:

(1) THE AMOUNT THIS NOTICE SAYS YOU OWE; PLUS

(2) THE COSTS INCURRED TO SERVE THIS NOTICE ON YOU; PLUS

(3) \$500 TO APPLY TO ATTORNEYS FEES ACTUALLY EXPENDED OR INCURRED; PLUS

(4) ANY ADDITIONAL AMOUNTS FOR YOUR UNIT BECOMING DUE TO (fill in name of association or secured party) AFTER THE DATE OF THIS NOTICE; OR

(b) YOU SECURE FROM A DISTRICT COURT AN ORDER THAT THE FORECLOSURE OF YOUR RIGHTS TO YOUR UNIT BE SUSPENDED UNTIL YOUR CLAIMS OR DEFENSES ARE FINALLY DISPOSED OF BY TRIAL, HEARING, OR SETTLEMENT. YOUR ACTION MUST SPECIFICALLY STATE THOSE FACTS AND GROUNDS THAT DEMONSTRATE YOUR CLAIMS OR DEFENSES.

IF YOU DO NOT DO ONE OR THE OTHER OF THE ABOVE THINGS WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE, YOUR OWNERSHIP RIGHTS IN YOUR UNIT WILL TERMINATE AT THE END OF THE PERIOD, YOU WILL LOSE ALL THE MONEY YOU HAVE PAID FOR YOUR UNIT, YOU WILL LOSE YOUR RIGHT TO POSSESSION OF YOUR UNIT, YOU MAY LOSE YOUR RIGHT TO ASSERT ANY CLAIMS OR DEFENSES THAT YOU MIGHT HAVE, AND YOU WILL BE EVICTED. IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, CONTACT AN ATTORNEY IMMEDIATELY."

(4) In any foreclosure pursuant to chapter 580, 581, or 582, the rights of the parties shall be the same as those provided by law, except (i) the period of redemption for unit owners shall be six months from the date of sale or a lesser period authorized by law, (ii) in a foreclosure by advertisement under chapter 580, the foreclosing party shall be entitled to costs and disbursements of foreclosure and attorneys fees authorized by the declaration or bylaws, notwithstanding the provisions of section 582.01, subdivisions 1 and 1a, (iii) in a foreclosure by action under chapter 581, the foreclosing party shall be entitled to costs and disbursements of foreclosure and attorneys fees as the court shall determine, and (iv) the amount of the association's lien shall be deemed to be adequate consideration for the unit subject to foreclosure, notwithstanding the value of the unit.

(i) If a holder of a sheriff's certificate of sale, prior to the expiration of the period of redemption, pays any past due or current assessments, or any other charges lienable as assessments, with respect to the unit described in the sheriff's certificate, then the amount paid shall be a part of the sum required to be paid to redeem under section 582.03.

(j) In a cooperative, ~~following foreclosure if the unit owner fails to redeem before the expiration of the redemption period in a foreclosure of the association's assessment lien, the association may bring an action for eviction against the unit owner and any persons in possession of the unit, and in that case section 504B.291 shall not apply.~~

(k) An association may assign its lien rights in the same manner as any other secured party.

Sec. 31. Minnesota Statutes 2004, section 515B.3-117, is amended to read:

515B.3-117 [OTHER LIENS.]

(a) Except in a cooperative and except as otherwise provided in this chapter or in a security instrument, an individual unit owner may have the unit owner's unit released from a lien if the unit owner pays the lienholder the portion of the amount which the lien secures that is attributable to the unit. Upon the receipt of payment, the lienholder shall promptly deliver to the unit owner a recordable partial satisfaction and release of lien releasing the unit from the lien. The release shall be deemed to include a release of any rights in the common elements appurtenant to the unit. The portion of the amount which a lien secures that is attributable to the unit shall be equal to the total amount which the lien secures multiplied by a percentage calculated by dividing the common expense liability attributable to the unit by the common expense liability attributable to all units against which the lien has been recorded, or in the case of a lien under subsection (b), the units against which the lien is permitted or required to be recorded. At the request of a lien claimant or unit owners, the association shall provide a written statement of the percentage of common expense liability attributable to all units. After a unit owner's payment pursuant to this section, the association may not assess the unit for any common expense incurred thereafter in connection with the satisfaction or defense against the lien.

(b) Labor performed or materials furnished for the improvement of a unit shall be the basis for the recording of a lien against that unit pursuant to the provisions of chapter 514 but shall not be the basis for the recording of a lien against the common elements. Labor performed or materials furnished for the improvement of common elements, for which a lien may be recorded under chapter 514, if duly authorized by the association, shall be deemed to be performed or furnished with the express consent of each unit owner, and shall be perfected by recording a lien against all the units in the common interest community pursuant to the provisions of chapter 514, but shall not be the basis for the recording of a lien against the common elements except in the case of a condominium on registered land, in which case a lien must be filed pursuant to section 508.351, subdivision 3, or 508A.351, subdivision 3. Where a lien is recorded against the units for labor performed or material furnished for the improvement of common elements, the association shall be deemed to be the authorized agent of the unit owners for purposes of receiving the notices required under sections 514.011 and 514.08, subdivision 1, clause (2).

(c) A security interest in a cooperative whose unit owners' interests in the units are personal property shall be perfected by recording a financing statement in the UCC filing section of the office of the recording officer for the county in which the unit is located. In any disposition by a secured party pursuant to section 336.9-610 or retention pursuant to sections 336.9-620 to

336.9-622, the rights of the parties shall be the same as those provided by law, subject to the exceptions and requirements set forth in section 515B.3-116(h)(3), and except that the unit owner has the right to reinstate the debt owing to the secured party by paying to the secured party, prior to the effective date of the disposition or retention, the amount which would be required to reinstate the debt under section 580.30 if the unit were wholly real estate.

Sec. 32. Minnesota Statutes 2004, section 515B.3-120, is amended to read:

515B.3-120 [DECLARANT DUTIES; TURNOVER OF RECORDS.]

(a) During any period of declarant control pursuant to section 515B.3-103(c), declarant and any of its representatives who are acting as officers or directors of the association shall:

(1) cause the association to be operated and administered in accordance with its articles of incorporation and bylaws, the declaration and applicable law;

(2) be subject to all fiduciary obligations and obligations of good faith applicable to any persons serving a corporation in that capacity;

(3) cause the association's funds to be maintained in a separate bank account or accounts solely in the association's name, from and after the date of creation of the association; and

(4) cause the association to maintain complete and accurate records in compliance with section 515B.3-118.

(b) At such time as any period of declarant control terminates, declarant shall cause to be delivered to the board elected by the unit owners exclusive control of all funds of the association, all contracts and agreements ~~to which are binding on the association was or is a party,~~ all corporate records of the association including financial records, copies of all CIC plats and supplementary CIC plats, personal property owned or represented to be owned by the association, assignments of all declarant's rights and interests under the warranties if not in the name of the association, and, to the extent they are in the control or possession of the declarant, copies of all plans and specifications in its control or possession relating to the common interest community buildings and related improvements which are part of the common elements, and operating manuals and warranty materials relating to any equipment or personal property utilized in the operation of the common interest community. The declarant's obligation to turn over the foregoing items shall continue to include additional new or changed items in its possession or control.

(c) ~~A declarant in control person entitled to appoint the directors of a master association pursuant to section 515B.2-121(c)(3), and the master association's officers and directors, shall be subject to the same duties and obligations with respect to the master association as are described in subsections (a), and (b) and (e), to the extent applicable. The period of declarant control of the master association shall terminate as provided in section 515B.2-121(f). A master association may not be used to circumvent or avoid any obligation or restriction imposed on a declarant or its affiliates by this chapter.~~

Sec. 33. Minnesota Statutes 2004, section 515B.4-101, is amended to read:

515B.4-101 [APPLICABILITY; DELIVERY OF DISCLOSURE STATEMENT.]

(a) Sections 515B.4-101 through 515B.4-118 apply to all units subject to this chapter, except as provided in subsection (c) or as modified or waived by written agreement of purchasers of a unit which is restricted to nonresidential use.

(b) Subject to subsections (a) and (c), a declarant who offers a unit to a purchaser shall deliver to the purchaser a current disclosure statement which complies with the requirements of section 515B.4-102. The disclosure statement shall include any material amendments to the disclosure statement made prior to the conveyance of the unit to the purchaser. The declarant shall be liable to the purchaser to whom it delivered the disclosure statement for any false or misleading statement set forth therein or for any omission of a material fact therefrom.

(c) Neither a disclosure statement nor a resale disclosure certificate need be prepared or delivered in the case of:

- (1) a gratuitous transfer;
- (2) a transfer pursuant to a court order;
- (3) a transfer to a government or governmental agency;
- (4) a transfer to a secured party by foreclosure or deed in lieu of foreclosure;
- (5) an option to purchase a unit, until exercised;
- (6) a transfer to a person who "controls" or is "controlled by," the grantor as those terms are defined with respect to a declarant under section 515B.1-103(2);
- (7) a transfer by inheritance;
- (8) a transfer of special declarant rights under section 515B.3-104; or
- (9) a transfer in connection with a change of form of common interest community under section 515B.2-123.

(d) A purchase agreement for a unit shall contain the following notice: "The following notice is required by Minnesota Statutes. The purchaser is entitled to receive a disclosure statement or resale disclosure certificate, as applicable. The disclosure statement or resale disclosure certificate contains important information regarding the common interest community and the purchaser's cancellation rights."

(e) A purchase agreement for the sale, to the initial occupant, of a platted lot or other parcel of real estate (i) which is subject to a master declaration, (ii) which is intended for residential occupancy, and (iii) which does not and is not intended to constitute a unit, shall contain the following notice: "The following notice is required by Minnesota Statutes: The real estate to be conveyed under this agreement is or will be subject to a master association as defined in Minnesota Statutes, chapter 515B. The master association is obligated to provide to the purchaser, pursuant to Minnesota Statutes, section 515B.4-102(c), upon the purchaser's request, a statement containing the information required by Minnesota Statutes, section 515B.4-102(a)(20), with respect to the master association, prior to the time that the purchaser signs a purchase agreement for the real estate. The statement contains important information regarding the master association and the purchaser's obligations thereunder." A claim by a purchaser based upon a failure to include the foregoing notice in a purchase agreement:

- (1) shall be limited to legal, and not equitable, remedies;
- (2) shall be barred unless it is commenced within the time period specified in section 515B.4-115(a); or
- (3) may be waived by a separate written document signed by the seller and purchaser.

Sec. 34. Minnesota Statutes 2004, section 515B.4-102, is amended to read:

515B.4-102 [DISCLOSURE STATEMENT; GENERAL PROVISIONS.]

- (a) A disclosure statement shall fully and accurately disclose:
 - (1) the name and, if available, the number of the common interest community;
 - (2) the name and principal address of the declarant;
 - (3) the number of units which the declarant has the right to include in the common interest community and a statement that the common interest community is either a condominium, cooperative, or planned community;

(4) a general description of the common interest community, including, at a minimum, (i) the number of buildings, (ii) the number of dwellings per building, (iii) the type of construction, (iv) whether the common interest community involves new construction or rehabilitation, (v) whether any building was wholly or partially occupied, for any purpose, before it was added to the common interest community and the nature of the occupancy, and (vi) a general description of any roads, trails, or utilities that are located on the common elements and that the association or a master association will be required to maintain;

(5) declarant's schedule of commencement and completion of construction of any buildings and other improvements that the declarant is obligated to build pursuant to section 515B.4-117;

(6) any expenses or services, not reflected in the budget, that the declarant pays or provides, which may become a common expense; the projected common expense attributable to each of those expenses or services; and an explanation of declarant's limited assessment liability under section 515B.3-115, subsection (b);

(7) any initial or special fee due from the purchaser to the declarant or the association at closing, together with a description of the purpose and method of calculating the fee;

(8) identification of any liens, defects, or encumbrances which will continue to affect the title to a unit or to any real property owned by the association after the contemplated conveyance;

(9) a description of any financing offered or arranged by the declarant;

(10) a statement as to whether application has been made for any project approvals for the common interest community from the Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), Department of Housing and Urban Development (HUD) or Department of Veterans Affairs (VA), and which, if any, such final approvals have been received;

(11) the terms of any warranties provided by the declarant, including copies of ~~chapter 327A,~~ and sections 515B.4-112 through 515B.4-115, and any other applicable statutory warranties, and a statement of any limitations on the enforcement of the applicable warranties or on damages;

(12) a statement that: (i) within ten days after the receipt of a disclosure statement, a purchaser may cancel any contract for the purchase of a unit from a declarant; provided, that the right to cancel terminates upon the purchaser's voluntary acceptance of a conveyance of the unit from the declarant or by the purchaser agreeing to modify or waive the right to cancel in the manner provided by section 515B.4-106, paragraph (a); (ii) if a purchaser receives a disclosure statement more than ten days before signing a purchase agreement, the purchaser cannot cancel the purchase agreement; and (iii) if a declarant obligated to deliver a disclosure statement fails to deliver a disclosure statement which substantially complies with this chapter to a purchaser to whom a unit is conveyed, the declarant shall be liable to the purchaser as provided in section 515B.4-106(d);

(13) a statement disclosing to the extent of the declarant's or an affiliate of a declarant's actual knowledge, after reasonable inquiry, any unsatisfied judgments or lawsuits to which the association is a party, and the status of those lawsuits which are material to the common interest community or the unit being purchased;

(14) a statement (i) describing the conditions under which earnest money will be held in and disbursed from the escrow account, as set forth in section 515B.4-109, (ii) that the earnest money will be returned to the purchaser if the purchaser cancels the contract pursuant to section 515B.4-106, and (iii) setting forth the name and address of the escrow agent;

(15) a detailed description of the insurance coverage provided by the association for the benefit of unit owners, including a statement as to which, if any, of the items referred to in section 515B.3-113, subsection (b), are insured by the association;

(16) any current or expected fees or charges, other than assessments for common expenses, to be paid by unit owners for the use of the common elements or any other improvements or facilities;

(17) the financial arrangements, including any contingencies, which have been made to provide for completion of all improvements that the declarant is obligated to build pursuant to section 515B.4-118, or a statement that no such arrangements have been made;

(18) in a cooperative: (i) whether the unit owners will be entitled for federal and state tax purposes, to deduct payments made by the association for real estate taxes and interest paid to the holder of a security interest encumbering the cooperative; ~~and~~ (ii) a statement as to the effect on the unit owners if the association fails to pay real estate taxes or payments due the holder of a security interest encumbering the cooperative; and (iii) the principal amount and a general description of the terms of any blanket mortgage, contract for deed, or other blanket security instrument encumbering the cooperative property;

(19) a statement: (i) that real estate taxes for the unit or any real property owned by the association are not delinquent or, if there are delinquent real estate taxes, describing the property for which the taxes are delinquent, stating the amount of the delinquent taxes, interest and penalties, and stating the years for which taxes are delinquent, and (ii) setting forth the amount of real estate taxes, including the amount of any special assessment certified for payment with the real estate taxes, due and payable with respect to the unit in the year in which the disclosure statement is given, if real estate taxes have been separately assessed against the unit;

(20) if the association or the purchaser of the unit will be a member of a master association, a statement to that effect, and all of the following information with respect to the master association: (i) a copy of the master declaration, if any (other than any CIC plat), the articles of incorporation, bylaws, and rules and regulations for the master association, together with any amendments thereto; (ii) the name, address and general description of the master association, including a general description of any other association, unit owners, or other persons which are or may become members; (iii) a description of any nonresidential use permitted on any property subject to the master association; (iv) a statement as to the estimated maximum number of associations, unit owners or other persons which may become members of the master association, and the degree and period of control of the master association by a declarant or other person; (v) a description of any facilities intended for the benefit of the members of the master association and not located on property owned or controlled by a member or the master association; (vi) the financial arrangements, including any contingencies, which have been made to provide for completion of the facilities referred to in subsection (v), or a statement that no arrangements have been made; (vii) any current balance sheet of the master association and a projected or current annual budget, as applicable, which budget shall include with respect to the master association those items in paragraph (23), clauses (i) through ~~(iv)~~ (iii), and the projected monthly common expense assessment for each type of unit, lot, or other parcel of real estate which is or is planned to be subject to assessment; (viii) a description of any expenses or services not reflected in the budget, paid for or provided by a declarant or a person executing the master declaration, which may become an expense of the master association in the future; (ix) a description of any powers delegated to and accepted by the master association pursuant to section 515B.2-121(f)(2); (x) identification of any liens, defects or encumbrances that will continue to affect title to property owned or operated by the master association for the benefit of its members; (xi) the terms of any warranties provided by any person for construction of facilities in which the members of the master association have or may have an interest, and any known defects in the facilities which would violate the standards described in section 515B.4-112(b); (xii) a statement disclosing, ~~to the extent of the declarant's knowledge,~~ after inquiry of the master association, any unsatisfied judgments or lawsuits to which the master association is a party, and the status of those lawsuits which are material to the master association; (xiii) a description of any insurance coverage provided for the benefit of its members by the master association; and (xiv) any current or expected fees or charges, other than assessments by the master association, to be paid by members of the master association for the use of any facilities intended for the benefit of the members;

(21) a statement as to whether the unit will be substantially completed at the time of conveyance to a purchaser, and if not substantially completed, who is responsible to complete and pay for the construction of the unit;

(22) a copy of the declaration and any amendments thereto, (exclusive of the CIC plat), any

other recorded covenants, conditions restrictions, and reservations affecting the common interest community; the articles of incorporation, bylaws and any rules or regulations of the association; any agreement excluding or modifying any implied warranties; any agreement reducing the statute of limitations for the enforcement of warranties; any contracts or leases to be signed by purchaser at closing; and a brief narrative description of any (i) contracts or leases that are or may be subject to cancellation by the association under section 515B.3-105 and (ii) any material agreements entered into between the declarant and a governmental entity that affect the common interest community; and

(23) ~~any current~~ a balance sheet for the association, current within 90 days; a projected annual budget for the association for the year in which the first unit is conveyed to a purchaser, and thereafter the current annual budget of the association; and a statement identifying the party responsible for the preparation of the budget. The budget shall assume that all units intended to be included in the common interest community, based upon the declarant's good faith estimate, have been subjected to the declaration; provided, that additional budget portrayals based upon a lesser number of units are permitted. The budget shall include, without limitation: (i) a statement of the amount included in the budget as a reserve for maintenance, repair and replacement; (ii) a statement of any other reserves; (iii) the projected common expense for each category of expenditures for the association; and (iv) the projected monthly common expense assessment for each type of unit; and (v) a footnote or other reference to those components of the common interest community the maintenance, repair, or replacement of which the budget assumes will be funded by assessments under section 515B.3-115(e) rather than by assessments included in the association's annual budget, and a statement referencing section 515B.3-115(e)(1) or (2) as the source of funding. If, based upon the association's then current budget, the monthly common expense assessment for the unit at the time of conveyance to the purchaser is anticipated to exceed the monthly assessment stated in the budget, a statement to such effect shall be included.

(b) A declarant shall promptly amend the disclosure statement to reflect any material change in the information required by this chapter.

(c) The master association, within ten days after a request by a declarant, ~~or any~~ a holder of declarant rights, or a purchaser referred to in section 515B.4-101(e), or the authorized representative of any of them, shall furnish the information required to be provided by subsection (a)(20). A declarant or other person who provides information pursuant to subsection (a)(20) is not liable to the purchaser for any erroneous information if the declarant or other person: (i) is not an affiliate of or related in any way to a person authorized to appoint the master association board pursuant to section 515B.2-121(c)(3), and (ii) has no actual knowledge that the information is incorrect.

Sec. 35. Minnesota Statutes 2004, section 515B.4-105, is amended to read:

515B.4-105 [COMMON INTEREST COMMUNITY WITH BUILDING ONCE OCCUPIED.]

The disclosure statement of a common interest community containing any building that was at any time before the creation of the common interest community wholly or partially occupied, for any purpose, by persons other than purchasers or persons who occupied with the consent of purchasers, shall contain, in addition to the information required by sections 515B.4-102, 515B.4-103 and 515B.4-104:

(1) a professional opinion prepared by a registered professional architect or engineer, licensed in this state, describing the ~~present~~ current condition of all structural components, and mechanical and electrical installations, material to the use and enjoyment of the building, to the extent reasonably ascertainable without disturbing the improvements or dismantling the equipment, which will be in place or be operational at the time of conveyance of the first unit to a person other than a declarant;

(2) a statement by the declarant of the expected useful life of each item reported on in paragraph (1) or a statement that no representations are made in that regard; and

(3) a list of any outstanding notices of uncured violations of building code or other municipal regulations, together with the estimated cost of curing those violations.

Sec. 36. Minnesota Statutes 2004, section 515B.4-106, is amended to read:

515B.4-106 [PURCHASER'S RIGHT TO CANCEL.]

(a) A person required to deliver a disclosure statement pursuant to section 515B.4-101(b) shall provide at least one of the purchasers of the unit with a copy of the disclosure statement and all amendments thereto before conveyance of the unit. If a purchaser is not given a disclosure statement more than ~~five~~ ten days before execution of the purchase agreement, the purchaser may, before conveyance, cancel the purchase agreement within ~~five~~ ten days after first receiving the disclosure statement. If a purchaser is given the disclosure statement more than ~~five~~ ten days before execution of the purchase agreement, the purchaser may not cancel the purchase agreement pursuant to this section. ~~Except as expressly provided in this chapter, The five-day ten-day rescission period cannot be waived~~ may be modified or waived, in writing, by agreement of the purchaser of a unit only after the purchaser has received and had an opportunity to review the disclosure statement. The person required to deliver a disclosure statement may not condition the sale of the unit on the purchaser agreeing to modify or waive the purchaser's ten-day right of rescission, may not contractually obligate the purchaser to modify or waive the purchaser's ten-day right of rescission, and may not include a modification or waiver of the ten-day right of rescission in any purchase agreement for the unit. To be effective, a modification or waiver of a purchaser's ten-day right of rescission must be evidenced by an instrument separate from the purchase agreement signed by the purchaser more than three days after the purchaser signs the purchase agreement.

(b) If an amendment to the disclosure statement materially and adversely affects a purchaser, then the purchaser shall have ~~five~~ ten days after delivery of the amendment to cancel the purchase agreement in accordance with this section. ~~The ten-day rescission period may be modified or waived, in writing, by agreement of the purchaser of a unit only after the purchaser has received and had an opportunity to review the disclosure statement. To be effective, a modification or waiver of a purchaser's ten-day right of rescission under this section must be evidenced by a written instrument separate from the purchase agreement signed by the purchaser more than three days after the purchaser receives the amendment.~~

(c) If a purchaser elects to cancel a purchase agreement pursuant to this section, the purchaser may do so by giving notice thereof pursuant to section 515B.1-115. Cancellation is without penalty, and all payments made by the purchaser before cancellation shall be refunded promptly. Notwithstanding anything in this section to the contrary, the purchaser's cancellation rights under this section terminate upon the purchaser's acceptance of a conveyance of the unit.

(d) If a declarant obligated to deliver a disclosure statement fails to deliver to the purchaser a disclosure statement which substantially complies with this chapter, the declarant shall be liable to the purchaser in the amount of \$1,000, in addition to any damages or other amounts recoverable under this chapter or otherwise. Any action brought under this subsection shall be commenced within the time period specified in section 515B.4-115, subsection (a).

Sec. 37. Minnesota Statutes 2004, section 515B.4-107, is amended to read:

515B.4-107 [RESALE OF UNITS.]

(a) In the event of a resale of a unit by a unit owner other than a declarant, unless exempt under section 515B.4-101(c), the unit owner shall furnish to a purchaser, before execution of any purchase agreement for a unit or otherwise before conveyance, the following documents relating to the association or to the master association, if applicable:

(1) copies of the declaration (other than any CIC plat), the articles of incorporation and bylaws, any rules and regulations, and any amendments ~~thereto~~ or supplemental declarations;

(2) the organizational and operating documents relating to the master association, if any; and

(3) a resale disclosure certificate from the association dated not more than 90 days prior to the date of the purchase agreement or the date of conveyance, whichever is earlier, containing the information set forth in subsection (b).

(b) The resale disclosure certificate must be in substantially the following form:

COMMON INTEREST COMMUNITY
RESALE DISCLOSURE CERTIFICATE

Name of Common Interest Community:.....

Name of Association:.....

Address of Association:.....

Unit Number(s) (include principal unit and any garage, storage, or other auxiliary unit(s)):.....

The following information is furnished by the association named above according to Minnesota Statutes, section 515B.4-107.

1. There is no right of first refusal or other restraint on the free alienability of the above unit(s) contained in the declaration, bylaws, rules and regulations, or any amendment to them, except as follows:.....

.....
.....
.....

2. The following periodic installments of common expense assessments and special assessments are payable with respect to the above unit(s):

a. Annual assessment

installments: \$..... Due:.....

b. Special assessment

installments: \$..... Due:.....

c. Unpaid assessments, fines, or other charges:

- (1) Annual \$.....
- (2) Special \$.....
- (3) Fines \$.....
- (4) Other Charges \$.....

d. The association has/has not (strike one) approved

a plan for levying certain common expense assessments against fewer than all the units according to Minnesota Statutes, section 515B.3-115, subsection (e). If a plan is approved, a description of the plan is attached to this certificate.

3. In addition to the amounts due under paragraph 2, the following additional fees or charges other than assessments are payable by unit owners (include late payment charges, user fees, etc.):

.....
.....
.....

4. There are no extraordinary expenditures approved by the association, and not yet assessed, for the current and two succeeding fiscal years, except as follows:.....

.....
.....

5. The association has reserved the following amounts for maintenance, repair, or replacement:.....

.....
.....

The following portions of these reserves are designated for the following specified projects or uses:.....

.....

6. The following documents are furnished with this certificate according to statute:

- a. The most recent regularly prepared balance sheet and income and expense statement of the association.
- b. The current budget of the association.

7. There are no unsatisfied judgments against the association, except as follows (identify creditor and amount):..

.....
.....

8. There are no pending lawsuits to which the association is a party, except as follows (identify and summarize status):..

.....
.....
.....

9. Description of insurance coverages:

a. The association provides the following insurance coverage for the benefit of unit owners: (Reference may be made to applicable sections of the declaration or bylaws; however, any additional coverages should be described in this space)

.....
.....
.....

b. The following described fixtures, decorating items, or construction items within the unit referred to in Minnesota Statutes, section 515B.3-113, subsection (b), are insured by the association (check as applicable):

- ... Ceiling or wall finishing materials
- ... Floor coverings
- ... Cabinetry
- ... Finished millwork
- ... Electrical or plumbing fixtures serving a single unit
- ... Built-in appliances
- ... Improvements and betterments as originally constructed
- ... Additional improvements and betterments installed by unit owners

10. The board of directors of the association has not notified the unit owner (i) that any

alterations or improvements to the unit or to the limited common elements assigned to it violate any provision of the declaration; or (ii) that the unit is in violation of any governmental statute, ordinance, code, or regulation, except as follows:.....

.....

11. The remaining term of any leasehold estate affecting the common interest community and the premises governing any extension or renewal of it are as follows:.....

.....

.....

12. In addition to the above, the following matters affecting the unit or the unit owner's obligations with respect to the unit are deemed material.

.....

I hereby certify that the foregoing information and statements are true and correct as of.....

(Date)

By:.....
Title:.....
(Association representative)
Address:.....
Phone Number:.....

RECEIPT

In addition to the foregoing information furnished by the association, the unit owner is obligated to furnish to the purchaser before execution of any purchase agreement for a unit or otherwise before conveyance, copies of the following documents relating to the association or to the master association (as applicable): the declaration (other than any common interest community plat), articles of incorporation, bylaws, rules and regulations (if any), and any amendments to these documents. Receipt of the foregoing documents, and the resale disclosure certificate, is acknowledged by the undersigned buyer(s).

Dated:.....

.....

(Buyer)

.....

(Buyer)

(c) If the association is subject to a master association to which has been delegated the association's powers under section 515B.3-102(a)(2), then the financial information required to be disclosed under subsection (b) may be disclosed on a consolidated basis.

(d) The association, within ten days after a request by a unit owner, or the unit owner's authorized representative, shall furnish the certificate required in subsection (a). The association may charge a reasonable fee for furnishing the certificate and any association documents related thereto. A unit owner providing a certificate pursuant to subsection (a) is not liable to the purchaser for any erroneous information provided by the association and included in the certificate.

(e) A purchaser is not liable for any unpaid common expense assessments, including special assessments, if any, not set forth in the certificate required in subsection (a). A purchaser is not liable for the amount by which the annual or special assessments exceed the amount of annual or special assessments stated in the certificate for assessments payable in the year in which the certificate was given, except to the extent of any increases subsequently approved in accordance with the declaration or bylaws. A unit owner is not liable to a purchaser for the failure of the association to provide the certificate, or a delay by the association in providing the certificate in a timely manner.

Sec. 38. Minnesota Statutes 2004, section 515B.4-108, is amended to read:

515B.4-108 [PURCHASER'S RIGHT TO CANCEL RESALE.]

(a) Unless a purchaser is given the information required to be delivered by section 515B.4-107, by a delivery method described in that section, more than ~~five~~ ten days prior to the execution of the purchase agreement for the unit the purchaser may, prior to the conveyance, cancel the purchase agreement within ~~five~~ ten days after receiving the information. ~~Except as expressly provided in this chapter, the five-day rescission period cannot be waived. The ten-day rescission period may be modified or waived, in writing, by agreement of the purchaser of a unit only after the purchaser has received and had an opportunity to review the information required to be delivered by section 515B.4-107. The person required to deliver the information required to be delivered by section 515B.4-107 may not condition the sale of the unit on the purchaser agreeing to modify or waive the purchaser's ten-day right of rescission, may not contractually obligate the purchaser to modify or waive the purchaser's ten-day right of rescission, and may not include a modification or waiver of the ten-day right of rescission in any purchase agreement for the unit. To be effective, a modification or waiver of a purchaser's ten-day right of rescission must be evidenced by an instrument separate from the purchase agreement signed by the purchaser more than three days after the purchaser signs the purchase agreement.~~

(b) A purchaser who elects to cancel a purchase agreement pursuant to subsection (a), may do so by hand delivering notice thereof or mailing notice by postage prepaid United States mail to the seller or the agent. Cancellation is without penalty and all payments made by the purchaser shall be refunded promptly.

Sec. 39. Minnesota Statutes 2004, section 515B.4-109, is amended to read:

515B.4-109 [ESCROW DEPOSITS.]

All earnest money paid or deposits made in connection with the purchase or reservation of units from or with a declarant shall be deposited in an escrow account controlled jointly by the declarant and the purchaser, or controlled by a licensed title insurance company or agent thereof, an attorney representing either the declarant or the purchaser, a licensed real estate broker ~~or~~, an independent bonded escrow company, ~~or a governmental agency or instrumentality~~. The escrow account shall be in an institution whose deposits are insured by a governmental agency or instrumentality. The money or deposits shall be held in the escrow account until (i) delivered to the declarant at closing; (ii) delivered to the declarant because of the purchaser's default under a reservation agreement or a contract to purchase the unit; (iii) delivered to the purchaser pursuant to the provisions of section 515B.4-106 or the provisions of a reservation agreement or a contract to purchase; or (iv) delivered for payment of construction costs pursuant to a written agreement between the declarant and the purchaser.

Sec. 40. Minnesota Statutes 2004, section 515B.4-111, is amended to read:

515B.4-111 [CONVERSION PROPERTY.]

(a) A unit owner of a unit occupied for residential use in a common interest community containing conversion property shall not, for a period of one year following the recording of the declaration creating the common interest community, require any occupant of the unit to vacate the unit unless the unit owner gives notice to the occupant in the manner described in this section. The notice shall be given no later than 120 days before the occupant is required to vacate the unit. The notice shall be sufficient as to all occupants of a unit if it is hand delivered or mailed to the unit to be vacated, addressed to the occupants thereof. If the holder of the lessee's interest in the unit has given the unit owner an address different than that of the unit, then the notice shall also be given to the holder of the lessee's interest at the designated address. The notice shall satisfy comply with the following requirements:

(1) The notice shall set forth generally the rights conferred by this section.

(2) The notice shall have attached to the notice intended for the holder of the lessee's interest a form of purchase agreement setting forth the terms of sale contemplated by subsection (d) and a

statement of any significant restrictions on the use and occupancy of the unit to be imposed by the declarant.

(3) The notice shall state that the occupants of the residential unit may demand to be given 60 additional days before being required to vacate, if any of them, or any person residing with them, is (i) 62 years of age or older, (ii) a person with a disability as defined in section 268A.01, or (iii) a minor child on the date the notice is given. This demand must be in writing, contain reasonable proof of qualification, and be given to the declarant within 30 days after the notice of conversion is delivered or mailed.

(4) The notice shall be contained in an envelope upon which the following shall be boldly printed: "Notice of Conversion."

(b) Notwithstanding subsection (a), an occupant may be required to vacate a unit upon less than 120 days' notice by reason of nonpayment of rent, utilities or other monetary obligations, violations of law, waste, or conduct that disturbs other occupants' peaceful enjoyment of the premises. The terms of the tenancy may not be altered during the notice period, except that the holder of the lessee's interest or other party in possession may vacate and terminate the tenancy upon one month's written notice to the declarant. Nothing in this section prevents the unit owner and any occupant from agreeing to a right of occupancy on a month-to-month basis beyond the 120-day notice period, or to an earlier termination of the right of occupancy.

(c) No repair work or remodeling may be commenced or undertaken in the occupied units or common areas of the building during the notice period, unless reasonable precautions are taken to ensure the safety and security of the occupants.

(d) For 60 days after delivery or mailing of the notice described in subsection (a), the holder of the lessee's interest in the unit on the date the notice is mailed or delivered shall have an option to purchase that unit on the terms set forth in the purchase agreement attached to the notice. The purchase agreement shall contain no terms or provisions which violate any state or federal law relating to discrimination in housing. If the holder of the lessee's interest fails to purchase the unit during that 60-day period, the unit owner may not offer to dispose of an interest in that unit during the following 180 days at a price or on terms more favorable to the offeree than the price or terms offered to the holder. This subsection does not apply to any unit in a conversion building if that unit will be restricted exclusively to nonresidential use or if the boundaries of the converted unit do not substantially conform to the boundaries of the residential unit before conversion.

(e) If a unit owner, in violation of subsection (b), conveys a unit to a purchaser for value who has no knowledge of the violation, the recording of the deed conveying the unit or, in a cooperative, the conveyance of the right to possession of the unit, extinguishes any right a holder of a lessee's interest who is not in possession of the unit may have under subsection (d) to purchase that unit, but the conveyance does not affect the right of the holder to recover damages from the unit owner for a violation of subsection (d).

(f) If a notice of conversion specifies a date by which a unit or proposed unit must be vacated or otherwise complies with the provisions of chapter 504B, the notice also constitutes a notice to vacate specified by that statute.

(g) Nothing in this section permits a unit owner to terminate a lease in violation of its terms.

(h) Failure to give notice as required by this section is a defense to an action for possession until a notice complying with this section is given and the applicable notice period terminates.

Sec. 41. Minnesota Statutes 2004, section 515B.4-115, is amended to read:

515B.4-115 [STATUTE OF LIMITATIONS FOR WARRANTIES.]

(a) A judicial proceeding for breach of an obligation arising under section 515B.4-101(e) or 515B.4-106(d), shall be commenced within six months after the conveyance of the unit or other parcel of real estate.

(b) A judicial proceeding for breach of an obligation arising under section 515B.4-112 or 515B.4-113 shall be commenced within six years after the cause of action accrues, but the parties may agree to reduce the period of limitation to not less than two years. An agreement reducing the period of limitation shall be binding on the purchaser's successor assigns. With respect to a unit that may be occupied for residential use, an agreement to reduce the period of limitation must be evidenced by an instrument separate from the purchase agreement signed by the purchaser.

(c) Subject to subsection (d), a cause of action under section 515B.4-112 or 515B.4-113, regardless of the purchasers lack of knowledge of the breach, accrues:

(1) as to a unit, at the earlier of the time of conveyance of the unit by the declarant to a bona fide purchaser of the unit other than an affiliate of a declarant, or the time the purchaser enters into possession of the unit; and

(2) as to each common element, the latest of (i) the time the common element is completed, (ii) the time the first unit in the common interest community is conveyed to a bona fide purchaser, or if the common element is located on property that is additional real estate at the time the first unit therein is conveyed to a bona fide purchaser, or (iii) the termination of the period of declarant control.

(d) If a warranty explicitly extends to future performance or duration of any improvement or component of the common interest community, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier."

Amend the title as follows:

Page 1, line 13, after "515B.4-107;" insert "515B.4-108;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

SECOND READING OF SENATE BILLS

S.F. Nos. 550, 186, 262, 370, 518, 716, 717, 391, 379, 288, 392 and 393 were read the second time.

MOTIONS AND RESOLUTIONS

Senator Rest moved that her name be stricken as a co-author to S.F. No. 116. The motion prevailed.

Senator Lourey moved that the name of Senator Chaudhary be added as a co-author to S.F. No. 639. The motion prevailed.

Senator Bachmann moved that the name of Senator LeClair be added as a co-author to S.F. No. 700. The motion prevailed.

Senator Kelley moved that the name of Senator Rest be added as a co-author to S.F. No. 810. The motion prevailed.

Senator Day moved that his name be stricken as a co-author to S.F. No. 818. The motion prevailed.

Senator Jungbauer moved that the name of Senator Johnson, D.J. be added as a co-author to S.F. No. 818. The motion prevailed.

Senator Kleis moved that the name of Senator Vickerman be added as a co-author to S.F. No. 825. The motion prevailed.

Senator Lourey moved that the name of Senator Berglin be added as a co-author to S.F. No. 828. The motion prevailed.

Senator Rest moved that S.F. No. 155 be withdrawn from the Committee on Jobs, Energy and Community Development and returned to its author. The motion prevailed.

Senator Sparks introduced--

Senate Resolution No. 35: A Senate resolution honoring Diane Benson for receiving a Minnesota "Star of Life" award for 2005.

Referred to the Committee on Rules and Administration.

Senator Wiger introduced--

Senate Resolution No. 36: A Senate resolution congratulating Andrew Frederic Shodeen of Oakdale, Minnesota, for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

Senator Wiger introduced--

Senate Resolution No. 37: A Senate resolution congratulating Benjamin Wayne Vindedahl of Oakdale, Minnesota, for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

Pursuant to Rule 26, Senator Johnson, D.E., Chair of the Committee on Rules and Administration, designated S.F. No. 171 a Special Order to be heard immediately.

SPECIAL ORDER

S.F. No. 171: A bill for an act relating to liquor; providing for conformity in license fees and production levels for brewpubs and small brewers; authorizing issuance of temporary licenses to small brewers; authorizing off-sale of growlers by small brewers; modifying sampling provisions; providing that the on-sale license for Elko Speedway authorizes sales on all days of the week; changing the issuer of a certain license at the state fair; authorizing the city of Duluth to issue a liquor license for Wade Municipal Stadium; authorizing the city of St. Paul to issue a liquor license for special events at the State Capitol; amending Minnesota Statutes 2004, sections 340A.301, subdivisions 6, 7; 340A.404, subdivision 10; 340A.510, subdivision 2; Laws 2003, chapter 126, sections 28, 29; proposing coding for new law in Minnesota Statutes, chapter 340A.

Senator Pappas moved to amend S.F. No. 171 as follows:

Page 5, line 33, before "shall" insert ", subdivisions 1 to 3a,"

Pages 5 to 7, delete section 4

Page 9, line 2, delete "5, 7," and insert "4, 6,"

Page 9, line 3, delete "8, 9, and 10" and insert "7, 8, and 9"

Page 9, line 4, delete "6" and insert "5"

Reorder the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 171 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 60 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Koering	Neuville	Ruud
Bachmann	Gaither	Kubly	Nienow	Saxhaug
Bakk	Gerlach	Langseth	Ortman	Scheid
Belanger	Hann	Larson	Ourada	Senjem
Berglin	Higgins	LeClair	Pappas	Skoe
Betzold	Hottinger	Lourey	Pariseau	Skoglund
Chaudhary	Johnson, D.E.	Marty	Pogemiller	Solon
Cohen	Johnson, D.J.	McGinn	Ranum	Sparks
Day	Jungbauer	Metzen	Reiter	Tomassoni
Dibble	Kierlin	Michel	Rest	Vickerman
Fischbach	Kiscaden	Moua	Robling	Wergin
Foley	Kleis	Murphy	Rosen	Wiger

Those who voted in the negative were:

Dille

So the bill, as amended, was passed and its title was agreed to.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time and referred to the committees indicated.

Senator Sams introduced--

S.F. No. 830: A bill for an act relating to insurance; permitting service cooperatives to provide group health coverage to private employers; proposing coding for new law in Minnesota Statutes, chapter 123A.

Referred to the Committee on Health and Family Security.

Senator Wergin introduced--

S.F. No. 831: A bill for an act relating to education; authorizing districts to hold operating referendum for a proposed facility at the same time as a referendum to fund the proposed facility; amending Minnesota Statutes 2004, section 126C.17, subdivision 11.

Referred to the Committee on Finance.

Senators Wergin and LeClair introduced--

S.F. No. 832: A bill for an act relating to state government; imposing certain conditions on nonprofit organizations that receive a grant or a direct appropriation from the state; proposing coding for new law in Minnesota Statutes, chapter 16A.

Referred to the Committee on State and Local Government Operations.

Senators Sams, Langseth and Skoe introduced--

S.F. No. 833: A bill for an act relating to taxation; property; extending the special agricultural homestead to include grandsons and granddaughters; amending Minnesota Statutes 2004, section 273.124, subdivision 14.

Referred to the Committee on Taxes.

Senators Stumpf, Skoe, Anderson and Langseth introduced--

S.F. No. 834: A resolution memorializing Congress to oppose the Central American Free Trade Agreement.

Referred to the Committee on Rules and Administration.

Senators Betzold and Pogemiller introduced--

S.F. No. 835: A bill for an act relating to tax increment financing; authorizing authorities to establish an urban renewal area; amending Minnesota Statutes 2004, sections 469.174, by adding a subdivision; 469.176, by adding a subdivision.

Referred to the Committee on Taxes.

Senators Fischbach, Koering, Nienow and Wergin introduced--

S.F. No. 836: A bill for an act relating to health; modifying hospital and clinic grant programs; eliminating community health center program; amending Minnesota Statutes 2004, sections 144.147, subdivision 2; 144.148, subdivision 1; 144.1483; 145.9268; repealing Minnesota Statutes 2004, section 144.1486.

Referred to the Committee on Health and Family Security.

Senators Fischbach, Hann and Wergin introduced--

S.F. No. 837: A bill for an act relating to education; allowing 10th grade students to participate in the postsecondary enrollment options program; amending Minnesota Statutes 2004, section 124D.09, subdivisions 4, 5, 7, 8, 9.

Referred to the Committee on Education.

Senators Gaither, Hann and Foley introduced--

S.F. No. 838: A bill for an act relating to retirement; providing an additional benefit for certain teachers; proposing coding for new law in Minnesota Statutes, chapter 354.

Referred to the Committee on State and Local Government Operations.

Senators Bachmann, Gaither, Jungbauer and Hann introduced--

S.F. No. 839: A bill for an act relating to taxation; abolishing the estate tax; amending Minnesota Statutes 2004, sections 289A.01; 289A.60, subdivision 2a; 524.3-916; repealing Minnesota Statutes 2004, sections 289A.10; 289A.18, subdivision 3; 289A.19, subdivision 4; 289A.20, subdivision 3; 289A.30, subdivision 2; 289A.31, subdivision 6; 289A.38, subdivision 3; 291.005; 291.01; 291.03; 291.075; 291.12; 291.13; 291.16; 291.21; 291.215; 291.27; 291.41; 291.42; 291.43; 291.44; 291.45; 291.46; 291.47.

Referred to the Committee on Taxes.

Senators Bachmann, Gaither, Jungbauer and Hann introduced--

S.F. No. 840: A resolution memorializing Congress to permanently repeal the death tax.

Referred to the Committee on Rules and Administration.

Senators Bachmann and Hann introduced--

S.F. No. 841: A bill for an act relating to the legislature; prohibiting regular sessions in even-numbered years; amending Minnesota Statutes 2004, section 3.011.

Referred to the Committee on Rules and Administration.

Senators Bachmann, Jungbauer and Hann introduced--

S.F. No. 842: A bill for an act relating to state government; providing four percent salary decreases for legislators and constitutional officers until June 30, 2007.

Referred to the Committee on State and Local Government Operations.

Senators Bachmann and LeClair introduced--

S.F. No. 843: A bill for an act relating to appropriations; requiring that the grant period for a flood mitigation project grant to the city of Stillwater be extended.

Referred to the Committee on Finance.

Senators Bachmann and LeClair introduced--

S.F. No. 844: A bill for an act relating to capital improvements; authorizing the sale and issuance of state bonds; appropriating money for the Carnegie Library in Stillwater.

Referred to the Committee on Finance.

Senator Saxhaug introduced--

S.F. No. 845: A bill for an act relating to natural resources; authorizing the acquisition of lakeshore with county environmental trust fund resources; amending Laws 1998, chapter 389, article 16, section 31, subdivision 4, as amended.

Referred to the Committee on Environment and Natural Resources.

Senator Saxhaug introduced--

S.F. No. 846: A bill for an act relating to natural resources; authorizing the private sale of consolidated conservation land in Aitkin County.

Referred to the Committee on Environment and Natural Resources.

Senators Sparks and Saxhaug introduced--

S.F. No. 847: A bill for an act relating to game and fish; permitting use of artificial lights to bow fish for rough fish; amending Minnesota Statutes 2004, section 97C.335.

Referred to the Committee on Environment and Natural Resources.

Senators Kierlin and Kiscaden introduced--

S.F. No. 848: A bill for an act relating to sales tax; exempting materials and equipment used in construction and upgrading of a wastewater treatment facility in Chatfield from the sales tax; amending Minnesota Statutes 2004, section 297A.71, by adding a subdivision.

Referred to the Committee on Taxes.

Senator Kiscaden introduced--

S.F. No. 849: A bill for an act relating to state government; appropriating money for the general legislative and administrative expenses of state government.

Referred to the Committee on Finance.

Senators Kiscaden and Lourey introduced--

S.F. No. 850: A bill for an act relating to health; providing for evidence-based health care guidelines; amending Minnesota Statutes 2004, section 62J.43.

Referred to the Committee on Health and Family Security.

Senators Koering, Sams, Langseth, Day and Johnson, D.E. introduced--

S.F. No. 851: A bill for an act relating to capital improvements; authorizing the issuance of state bonds; appropriating money for a recreational center in Bowles.

Referred to the Committee on Finance.

Senators Higgins, Sams, Kleis, Marty and Pogemiller introduced--

S.F. No. 852: A bill for an act relating to elections; facilitating voter registration by college students; amending Minnesota Statutes 2004, sections 135A.17, subdivision 2; 201.061, subdivision 3.

Referred to the Committee on Elections.

Senators Senjem, Betzold, Sams, Higgins and Rosen introduced--

S.F. No. 853: A bill for an act relating to state government; allowing certain boards to conduct meetings by telephone or other electronic means; amending Minnesota Statutes 2004, sections 116J.68, by adding a subdivision; 116L.03, by adding a subdivision; 116L.665, by adding a subdivision; 116M.15, by adding a subdivision; 116U.25; proposing coding for new law in Minnesota Statutes, chapter 41A.

Referred to the Committee on State and Local Government Operations.

Senators Scheid, Pogemiller and Rest introduced--

S.F. No. 854: A bill for an act relating to the city of Brooklyn Center; extending time to expend tax increments.

Referred to the Committee on Taxes.

Senators Foley, Neuville, Betzold, Skoglund and Limmer introduced--

S.F. No. 855: A bill for an act relating to public defense; limiting representation by public defenders to statutorily designated persons; providing for public defender access to certain data; amending Minnesota Statutes 2004, sections 611.14; 611.16; 611.25, subdivision 1; 611.272; repealing Minnesota Statutes 2004, section 611.18.

Referred to the Committee on Crime Prevention and Public Safety.

Senators Sparks, Cohen, Metzen, Sams and Dille introduced--

S.F. No. 856: A bill for an act relating to natural resources; appropriating money for a flood damage mitigation engineering study.

Referred to the Committee on Finance.

Senators Scheid, Kelley, Wergin, Gaither and Pappas introduced--

S.F. No. 857: A bill for an act relating to local government; modifying the compensation limit for political subdivision employees; amending Minnesota Statutes 2004, sections 43A.17, subdivision 9; 356.611, subdivision 1.

Referred to the Committee on State and Local Government Operations.

Senator Dille introduced--

S.F. No. 858: A bill for an act relating to elections; providing for nonpartisan legislative offices; modifying the allocation of money in the state elections campaign fund; amending Minnesota Statutes 2004, sections 10A.31, subdivision 5; 204D.08, subdivisions 4, 6; 204D.13, subdivision 1.

Referred to the Committee on Elections.

Senators Sparks, Anderson, Kubly, Bakk and Saxhaug introduced--

S.F. No. 859: A bill for an act relating to employment; regulating payment for overtime work; amending Minnesota Statutes 2004, section 177.25, subdivision 1.

Referred to the Committee on Jobs, Energy and Community Development.

Senators Sparks, Belanger, Tomassoni, Bakk and Ortman introduced--

S.F. No. 860: A bill for an act relating to sales and use taxes; authorizing the city of Albert Lea to impose a sales tax.

Referred to the Committee on Taxes.

Senators Metzen, Vickerman and Koering introduced--

S.F. No. 861: A bill for an act relating to the military; appropriating money to assist in the operation and staffing of the Minnesota National Guard Youth Camp at Camp Ripley.

Referred to the Committee on Finance.

Senator Hottinger introduced--

S.F. No. 862: A bill for an act relating to intoxicating liquor; authorizing Mankato to issue an on-sale intoxicating liquor license for the Midwest Wireless Civic Center.

Referred to the Committee on Commerce.

Senators Hottinger, Scheid, Murphy and Moua introduced--

S.F. No. 863: A bill for an act relating to elections; providing for fair and clean elections; increasing disclosure of campaign contributions to candidates; encouraging candidates to accept only clean money for their political campaigns; limiting campaign contributions and expenditures; increasing public subsidies for state candidates who agree to limit the sources and amounts of contributions to their campaigns; providing a throwback rule for the corporate franchise tax; appropriating money; amending Minnesota Statutes 2004, sections 10A.01, subdivision 1; 10A.02, subdivisions 8, 10, 11, 11a, 12, 13; 10A.025, subdivisions 1, 2; 10A.071, subdivision 3; 10A.34; 10A.37; 129D.13, by adding a subdivision; 129D.14, by adding a subdivision; 204B.11, subdivision 1; 211A.13; 211B.12; 211B.15, subdivision 16; 290.191, subdivision 5; 340A.404,

subdivision 10; 353.03, subdivision 1; 383B.042, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 204B; 211B; proposing coding for new law as Minnesota Statutes, chapter 10B; repealing Minnesota Statutes 2004, sections 10A.01, subdivisions 3, 4, 6, 7, 9, 10, 11, 12, 13, 15, 16, 17, 18, 20, 23, 25, 26, 27, 28, 29, 30, 32, 34, 36; 10A.105; 10A.11; 10A.12; 10A.13; 10A.14; 10A.15; 10A.16; 10A.17; 10A.18; 10A.20; 10A.24; 10A.241; 10A.242; 10A.25; 10A.255; 10A.257; 10A.27; 10A.273; 10A.275; 10A.28; 10A.29; 10A.30; 10A.31; 10A.315; 10A.321; 10A.322; 10A.323; 10A.324; 290.06, subdivision 23.

Referred to the Committee on Elections.

Senators Sams and Kelley introduced--

S.F. No. 864: A bill for an act relating to education finance; authorizing a fund transfer for Independent School District No. 771, Chokio-Alberta.

Referred to the Committee on Finance.

Senator Dibble introduced--

S.F. No. 865: A bill for an act relating to retirement; Minneapolis Teachers Retirement Fund Association; authorizing a certain teacher to purchase service credit for a study leave.

Referred to the Committee on State and Local Government Operations.

Senators Dibble, Sams, Dille, Saxhaug and Ruud introduced--

S.F. No. 866: A bill for an act relating to appropriations; appropriating money to fund grants for certain employment support services.

Referred to the Committee on Finance.

Senator Johnson, D.E. introduced--

S.F. No. 867: A bill for an act relating to the city of Willmar; authorizing the city to impose a sales and use tax.

Referred to the Committee on Taxes.

Senators Michel, Rosen, Wiger, Belanger and Kelley introduced--

S.F. No. 868: A bill for an act relating to education; allowing certain charter schools to limit admission to chemically dependent students; amending Minnesota Statutes 2004, sections 124D.10, subdivision 9; 124D.69, subdivision 3.

Referred to the Committee on Education.

Senators Lourey and Nienow introduced--

S.F. No. 869: A bill for an act relating to capital investment; appropriating money for Pine Technical College; authorizing the issuance of general obligation bonds.

Referred to the Committee on Finance.

Senators Solon, Higgins, Lourey, Hottinger and Senjem introduced--

S.F. No. 870: A bill for an act relating to human services; establishing a crisis nursery grant program; proposing coding for new law in Minnesota Statutes, chapter 256F.

Referred to the Committee on Health and Family Security.

Senator Hottinger introduced--

S.F. No. 871: A bill for an act relating to education finance; restoring the former method of determining class size ratios and allocating class size reduction revenue; amending Minnesota Statutes 2004, section 126C.12, subdivisions 2, 3, 4.

Referred to the Committee on Finance.

Senator Hottinger introduced--

S.F. No. 872: A bill for an act relating to education; modifying district health, safety, and environmental management cost; amending Minnesota Statutes 2004, section 123B.57, subdivision 8.

Referred to the Committee on Finance.

Senator Larson introduced--

S.F. No. 873: A bill for an act relating to human services; modifying child care reimbursement rates.

Referred to the Committee on Health and Family Security.

Senator Vickerman introduced--

S.F. No. 874: A bill for an act relating to veterans homes; expanding eligibility for admission to include certain Minnesota residents who provided military assistance to the United States armed forces in Southeast Asia during the Vietnam War era; amending Minnesota Statutes 2004, section 198.01.

Referred to the Committee on Agriculture, Veterans and Gaming.

Senators Solon, Tomassoni and Saxhaug introduced--

S.F. No. 875: A bill for an act relating to natural resources; appropriating money for silvicultural research.

Referred to the Committee on Finance.

Senators Hottinger, Saxhaug, Chaudhary, Frederickson and Dille introduced--

S.F. No. 876: A bill for an act relating to drainage; extending grass bank buffer zone requirement for ditches; amending Minnesota Statutes 2004, section 103E.021, subdivision 1.

Referred to the Committee on Environment and Natural Resources.

Senator Stumpf introduced--

S.F. No. 877: A bill for an act relating to state government; establishing a Minnesota Humanities Commission; proposing coding for new law in Minnesota Statutes, chapter 138.

Referred to the Committee on State and Local Government Operations.

Senators Pappas, Langseth, Kiscaden, Senjem and Kubly introduced--

S.F. No. 878: A bill for an act relating to education; providing for comprehensive family life

and sexuality education programs; proposing coding for new law in Minnesota Statutes, chapter 121A; repealing Minnesota Statutes 2004, section 121A.23.

Referred to the Committee on Education.

Senators Fischbach and Kleis introduced--

S.F. No. 879: A bill for an act relating to elections; providing for elimination of the state primary in a municipality or county if no nominee must be selected at the state primary for any partisan or nonpartisan office in that municipality or county; amending Minnesota Statutes 2004, sections 204D.03, subdivision 1; 204D.07, subdivision 3; 204D.12.

Referred to the Committee on Elections.

Senator LeClair introduced--

S.F. No. 880: A bill for an act relating to insurance; making federally conforming changes in Medicare-related coverage; providing financial solvency regulation for stand-alone Medicare Part D prescription drug plans; making related technical changes; amending Minnesota Statutes 2004, sections 62A.31, subdivisions 1f, 1k, 1n, 1s, 1t, 1u, 3, 4, 7; 62A.315; 62A.316; 62A.318; 62A.36, subdivision 1; 62L.12, subdivision 2; 62Q.01, subdivision 6; 256.9657, subdivision 3; 295.53, subdivision 1; 297I.15, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 62A.

Referred to the Committee on Health and Family Security.

Senators Hottinger and Skoe introduced--

S.F. No. 881: A bill for an act relating to education finance; authorizing a grant to establish supportive community partnerships; appropriating money.

Referred to the Committee on Finance.

Senators Johnson, D.J. and Jungbauer introduced--

S.F. No. 882: A bill for an act relating to highways; authorizing state bonding for improvements to marked Trunk Highway 65 to facilitate bus rapid transit.

Referred to the Committee on Finance.

Senators Kubly, Solon, Sparks and Murphy introduced--

S.F. No. 883: A bill for an act relating to health; modifying the Hearing Aid Dispenser Act; amending Minnesota Statutes 2004, sections 153A.14, subdivision 4b; 153A.19, subdivision 2, by adding a subdivision.

Referred to the Committee on Health and Family Security.

Senators Kubly, Sams, Frederickson and Johnson, D.E. introduced--

S.F. No. 884: A bill for an act relating to human services; extending the deadline for a nursing facility moratorium exception project.

Referred to the Committee on Health and Family Security.

Senators Berglin, Dibble, Higgins, Belanger and Michel introduced--

S.F. No. 885: A bill for an act relating to motor vehicles; authorizing additional deputy registrar of motor vehicles in Minneapolis.

Referred to the Committee on Transportation.

Senators Pappas, Anderson, Ranum, Koering and Skoglund introduced--

S.F. No. 886: A bill for an act relating to human services; collaborative services for at-risk children and youth; proposing coding for new law in Minnesota Statutes, chapter 256.

Referred to the Committee on Health and Family Security.

Senators Murphy, Dille, Wergin, Kubly and Vickerman introduced--

S.F. No. 887: A bill for an act relating to ethanol fuels; establishing a program of small grants to stimulate research on improved combustion of agriculturally derived ethanol in motor vehicle engines; appropriating money; amending Minnesota Statutes 2004, section 41A.09, by adding subdivisions.

Referred to the Committee on Agriculture, Veterans and Gaming.

Senators Kubly, Sams, Frederickson and Johnson, D.E. introduced--

S.F. No. 888: A bill for an act relating to retirement; Public Employees Retirement Association privatization; RenVilla Nursing Home privatization; extending date for filing special law approval with the secretary of state; amending Laws 2004, chapter 267, article 12, section 4.

Referred to the Committee on State and Local Government Operations.

Senators Kiscaden, Stumpf, Frederickson and Kierlin introduced--

S.F. No. 889: A bill for an act relating to education finance; providing that agricultural land is not subject to certain school district debt service levies; amending Minnesota Statutes 2004, sections 123B.53, subdivision 5; 126C.01, subdivision 2.

Referred to the Committee on Finance.

Senator Ranum introduced--

S.F. No. 890: A bill for an act relating to regulated industries; providing a grant for research; appropriating money.

Referred to the Committee on Finance.

Senators Lourey, Berglin, Rosen, Koering and Johnson, D.E. introduced--

S.F. No. 891: A bill for an act relating to human services; providing inflation adjustments for long-term care providers; amending Minnesota Statutes 2004, sections 256B.431, by adding a subdivision; 256B.5012, by adding a subdivision; 256B.765.

Referred to the Committee on Health and Family Security.

Senator Saxhaug introduced--

S.F. No. 892: A bill for an act relating to state employees; requiring health coverage for state employees to permit unrestricted choice of health care provider; amending Minnesota Statutes 2004, section 43A.23, subdivision 1.

Referred to the Committee on State and Local Government Operations.

Senators Tomassoni, Bakk and Saxhaug introduced--

S.F. No. 893: A bill for an act relating to counties; authorizing county boards to contract for the sale of biomass; amending Minnesota Statutes 2004, section 282.04, subdivision 1.

Referred to the Committee on State and Local Government Operations.

Senators Pappas, Hottinger, Frederickson, Kierlin and Scheid introduced--

S.F. No. 894: A bill for an act relating to education finance; modifying the adult basic education formula; awarding grants; appropriating money; amending Minnesota Statutes 2004, sections 124D.52, subdivision 3; 124D.531, subdivisions 1, 4.

Referred to the Committee on Finance.

Senator Rest introduced--

S.F. No. 895: A bill for an act relating to economic development; providing for an international economic development zone; providing tax incentives; requiring a report; appropriating money; amending Minnesota Statutes 2004, sections 272.02, by adding a subdivision; 290.01, subdivisions 19b, 29; 290.06, subdivision 2c, by adding a subdivision; 290.067, subdivision 1; 290.0671, subdivision 1; 290.091, subdivision 2; 290.0921, subdivision 3; 290.0922, subdivisions 2, 3; 297A.68, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 469.

Referred to the Committee on Jobs, Energy and Community Development.

Senators Bakk, Senjem, Saxhaug and Ruud introduced--

S.F. No. 896: A bill for an act relating to state lands; authorizing private sale of certain surplus land in Hubbard, Lake, and Wabasha Counties.

Referred to the Committee on Environment and Natural Resources.

Senators Bakk, Olson, Saxhaug, Jungbauer and Frederickson introduced--

S.F. No. 897: A bill for an act relating to state lands; modifying landowner's bill of rights for sales to the state; modifying provisions for sale of internal improvement land; modifying land exchange provisions; appropriating money; amending Minnesota Statutes 2004, sections 84.0274, by adding subdivisions; 84.157; 92.03, subdivision 4; 94.342, subdivisions 1, 3, 4, 5; 94.343, subdivisions 1, 3, 7, 8, 10, by adding subdivisions; 94.344, subdivisions 1, 3, 5, 8, 10, by adding a subdivision; 97A.135, subdivision 2a; 103F.535, subdivision 1; repealing Minnesota Statutes 2004, sections 94.343, subdivision 6; 94.344, subdivision 6; 94.348; 94.349.

Referred to the Committee on Environment and Natural Resources.

Senator Koering introduced--

S.F. No. 898: A bill for an act relating to human services; establishing caseload growth limits for the traumatic brain injury waived services program; appropriating money.

Referred to the Committee on Health and Family Security.

Senators Anderson, Scheid, Belanger and Berglin introduced--

S.F. No. 899: A bill for an act relating to child safety; prohibiting the sale and commercial use of certain cribs; providing enforcement; proposing coding for new law in Minnesota Statutes, chapters 245A; 325F.

Referred to the Committee on Commerce.

Senators Anderson, Neuville, Vickerman and Hottinger introduced--

S.F. No. 900: A bill for an act relating to state government; providing a process for community ownership of the Minnesota Twins; proposing coding for new law as Minnesota Statutes, chapter 4B.

Referred to the Committee on State and Local Government Operations.

Senator Skoglund introduced--

S.F. No. 901: A bill for an act relating to crimes; regulating the sale of methamphetamine precursor drugs containing ephedrine or pseudoephedrine; further regulating while recodifying activities involving anhydrous ammonia; requiring courts to order restitution in certain situations involving controlled substances; imposing property restrictions in certain situations involving controlled substances; increasing the criminal penalties for possessing certain substances with the intent to manufacture methamphetamine; establishing new methamphetamine-related crimes; expanding the definition of "violent crime" for mandatory sentencing purposes; requiring that property contaminated by methamphetamine manufacturing indicate this in the title or deed; establishing a methamphetamine laboratory cleanup revolving fund and authorizing loans to assist counties and cities in conducting methamphetamine cleanup; providing for the establishment of civil nuisances involving methamphetamine manufacture; requiring that anhydrous ammonia storage tanks be locked when unattended; requiring a toll-free number for citizen reports of methamphetamine laboratories; providing for reports; imposing criminal penalties; appropriating money; amending Minnesota Statutes 2004, sections 152.021, subdivisions 2a, 3; 152.135, subdivision 2; 168A.05, subdivision 3; 609.1095, subdivision 1; 617.81, subdivision 4, by adding a subdivision; 617.85; proposing coding for new law in Minnesota Statutes, chapters 144; 152; 446A; repealing Minnesota Statutes 2004, sections 18C.005, subdivisions 1a, 35a; 18C.201, subdivisions 6, 7; 18D.331, subdivision 5.

Referred to the Committee on Crime Prevention and Public Safety.

Senators Skoglund, Higgins, Ranum, Pogemiller and Dibble introduced--

S.F. No. 902: A bill for an act relating to education; excluding Minneapolis from the Teacher Tenure Act; amending Minnesota Statutes 2004, sections 122A.40, subdivision 18; 122A.41, subdivision 2.

Referred to the Committee on Education.

Senators Neuville, Betzold, Foley and Rosen introduced--

S.F. No. 903: A bill for an act relating to public safety; creating a Conditional Release Board with the authority to order the conditional release from prison of certain nonviolent controlled substance offenders, if the release of these offenders does not pose a danger to the public or any individual; authorizing expungements of conviction records for these offenders; requiring the Department of Corrections to offer chemical dependency treatment to certain offenders; authorizing an RFP for the construction and operation of correctional facilities to house and treat controlled substance offenders; amending Minnesota Statutes 2004, section 609A.02, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 243; 244.

Referred to the Committee on Crime Prevention and Public Safety.

Senators Anderson, Sams, Dille, Dibble and Rosen introduced--

S.F. No. 904: A bill for an act relating to employment; modifying job training program grant provisions; appropriating money for job training programs; amending Minnesota Statutes 2004, section 116J.8747, subdivision 2.

Referred to the Committee on Jobs, Energy and Community Development.

Senators Kubly, Hottinger, Kierlin, Pappas and Scheid introduced--

S.F. No. 905: A bill for an act relating to early education; providing for coordination of early care and education programs; amending Minnesota Statutes 2004, section 119A.03, by adding a subdivision.

Referred to the Committee on Finance.

Senators Kelley, Wergin, Sparks, Nienow and Pappas introduced--

S.F. No. 906: A bill for an act relating to early childhood education; expanding early childhood developmental screening; establishing a school readiness kindergarten assessment initiative; appropriating money; amending Minnesota Statutes 2004, section 121A.17, subdivisions 1, 3.

Referred to the Committee on Finance.

Senators Hottinger; Johnson, D.E.; Pappas and Kierlin introduced--

S.F. No. 907: A bill for an act relating to early childhood education; establishing the Minnesota Early Learning Foundation, a public-private partnership; appropriating money for the Minnesota Early Learning Foundation.

Referred to the Committee on Finance.

Senators Lourey, Solon, Kiscaden and Koering introduced--

S.F. No. 908: A bill for an act relating to health; modifying donated dental services program; modifying covered services for medical assistance; appropriating money; amending Minnesota Statutes 2004, sections 150A.22; 256B.0625, subdivision 9.

Referred to the Committee on Health and Family Security.

Senators Marko and Scheid introduced--

S.F. No. 909: A bill for an act relating to insurance; broadening an existing right to purchase Medicare supplement coverage under certain circumstances; amending Minnesota Statutes 2004, section 62A.31, subdivision 1h.

Referred to the Committee on Health and Family Security.

Senators Limmer and Rosen introduced--

S.F. No. 910: A bill for an act relating to health; providing for grants and public information related to positive abortion alternatives; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 145.

Referred to the Committee on Health and Family Security.

Senators Frederickson, Wergin, Hann and LeClair introduced--

S.F. No. 911: A bill for an act relating to health; providing for grants and public information related to positive abortion alternatives; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 145.

Referred to the Committee on Health and Family Security.

Senators Reiter; Kubly; Stumpf; Johnson, D.J. and Neuville introduced--

S.F. No. 912: A bill for an act relating to health; providing for grants and public information related to positive abortion alternatives; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 145.

Referred to the Committee on Health and Family Security.

Senators Koering, Michel, Vickerman, Saxhaug and Gaither introduced--

S.F. No. 913: A bill for an act relating to health; providing for grants and public information related to positive abortion alternatives; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 145.

Referred to the Committee on Health and Family Security.

Senators Ruud, Belanger, Kierlin, Dille and Larson introduced--

S.F. No. 914: A bill for an act relating to health; providing for grants and public information related to positive abortion alternatives; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 145.

Referred to the Committee on Health and Family Security.

Senators Bachmann, McGinn, Kleis, Langseth and Skoe introduced--

S.F. No. 915: A bill for an act relating to health; providing for grants and public information related to positive abortion alternatives; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 145.

Referred to the Committee on Health and Family Security.

Senators Fischbach, Day, Jungbauer, Olson and Senjem introduced--

S.F. No. 916: A bill for an act relating to health; providing for grants and public information related to positive abortion alternatives; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 145.

Referred to the Committee on Health and Family Security.

Senators Sams; Pariseau; Johnson, D.E.; Robling and Gerlach introduced--

S.F. No. 917: A bill for an act relating to health; providing for grants and public information related to positive abortion alternatives; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 145.

Referred to the Committee on Health and Family Security.

Senators Vickerman, Cohen, Larson, Michel and Ranum introduced--

S.F. No. 918: A bill for an act relating to finance; providing certain services to veterans; appropriating money.

Referred to the Committee on Finance.

Senators Kelley, Kierlin and Saxhaug introduced--

S.F. No. 919: A bill for an act relating to education; funding on-line learning at same rate for

certain students; amending Minnesota Statutes 2004, section 124D.095, subdivision 8; repealing Minnesota Statutes 2004, section 124D.095, subdivision 9.

Referred to the Committee on Education.

Senator Ranum introduced--

S.F. No. 920: A bill for an act relating to occupations; modifying licensure of city, county, and state agency alcohol and drug counselors; amending Minnesota Statutes 2004, section 148C.11, subdivision 5.

Referred to the Committee on State and Local Government Operations.

Senators Wergin, Day, Murphy and Vickerman introduced--

S.F. No. 921: A bill for an act relating to veterans; repealing the limit on the number of vehicles for which the registrar may issue to a veteran certain special veterans license plates; amending Minnesota Statutes 2004, section 168.123, subdivision 1.

Referred to the Committee on Transportation.

Senators Bachmann and Reiter introduced--

S.F. No. 922: A bill for an act relating to capital improvements; authorizing the issuance of state bonds; appropriating money for Century College.

Referred to the Committee on Finance.

Senators Bachmann and Reiter introduced--

S.F. No. 923: A bill for an act relating to elections; requiring proof of citizenship as part of registration; requiring voters to provide picture identification; amending Minnesota Statutes 2004, sections 201.061, subdivisions 1, 3; 204C.10.

Referred to the Committee on Elections.

Senators Bachmann, Nienow, Gerlach and Jungbauer introduced--

S.F. No. 924: A resolution requesting the Congressional delegation of the State of Minnesota give first priority to supporting and passing the defense appropriations bill first.

Referred to the Committee on Rules and Administration.

Senators Bachmann and Gerlach introduced--

S.F. No. 925: A resolution requesting the United States Congress to support a repeal of the federal excise tax on telecommunications.

Referred to the Committee on Rules and Administration.

Senator Betzold introduced--

S.F. No. 926: A bill for an act relating to data privacy; classifying certain investigative and licensing data; amending Minnesota Statutes 2004, sections 13.3805, by adding a subdivision; 13.46, subdivision 4.

Referred to the Committee on Judiciary.

ADJOURNMENT

Senator Johnson, D.E. moved that the Senate do now adjourn until 11:00 a.m., Monday, February 14, 2005. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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