

ONE HUNDRED SIXTEENTH DAY

St. Paul, Minnesota, Thursday, May 15, 2008

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

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rabbi Jared H. Saks.

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

Anderson	Erickson Ropes	Langseth	Ortman	Sieben
Bakk	Fischbach	Larson	Pappas	Skoe
Berglin	Foley	Latz	Pariseau	Skogen
Betzold	Frederickson	Limmer	Pogemiller	Sparks
Bonoff	Gerlach	Lourey	Prettner Solon	Stumpf
Carlson	Gimse	Lynch	Rest	Tomassoni
Chaudhary	Hann	Marty	Robling	Torres Ray
Clark	Higgins	Metzen	Rosen	Vandever
Cohen	Ingebrigtsen	Michel	Rummel	Vickerman
Dahle	Johnson	Moua	Saltzman	Wergin
Day	Jungbauer	Murphy	Saxhaug	Wiger
Dibble	Koch	Olseen	Scheid	
Dille	Koering	Olson, G.	Senjem	
Doll	Kubly	Olson, M.	Sheran	

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

May 12, 2008

The Honorable James P. Metzen
President of the Senate

Dear Senator Metzen:

The following appointments are hereby respectfully submitted to the Senate for confirmation as

required by law:

BOARD OF THE MINNESOTA STATE ACADEMIES

Martha Amundson, 1013 Fremont Cir., Northfield, in the county of Rice, effective September 25, 2007, for a term that expires on January 3, 2011.

Alex Caddy, 2220 Hulett Ave., Faribault, in the county of Rice, effective September 25, 2007, for a term that expires on January 3, 2011.

Walter Kramer, 425 N. 39th Ave. W., Duluth, in the county of Saint Louis, effective May 19, 2008, for a term that expires on January 2, 2012.

(Referred to the Committee on Education.)

Sincerely,
Tim Pawlenty, Governor

May 13, 2008

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2008 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2008	Date Filed 2008
	3585	303	8:19 p.m. May 13	May 13
	2877	304	8:20 p.m. May 13	May 13
	3372	305	8:22 p.m. May 13	May 13
	3494	318	4:19 p.m. May 13	May 13

Sincerely,
Mark Ritchie
Secretary of State

May 13, 2008

The Honorable James P. Metzen
President of the Senate

Dear President Metzen:

This letter is to clarify a portion of my veto message of May 12, 2008, regarding Chapter 301, Senate File 651, a bill banning flame retardants and certain other chemicals from products sold in Minnesota.

The veto message incorrectly stated that decabromodiphenyl ether (DECA) is used as a flame retardant in children's clothing. While DECA is used as a flame retardant in products such as furniture, consumer electronics, and commercial drapes, it is our understanding it is not used in children's clothing. We apologize for the error.

That misstatement does not alter the reasons for the veto. I vetoed the bill for two primary reasons: 1) Many studies regarding the impact of DECA do not support a ban; and 2) I believe our state agencies should review all available research and make a recommendation before moving forward with an outright ban.

My Administration is willing to work with the Legislature to craft legislation that will require the careful study of the science in this area and impose limitations on these compounds as appropriate.

Sincerely,
Tim Pawlenty, Governor

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 5 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 3056: A bill for an act relating to natural resources; modifying permanent school fund provisions; providing for disposition of proceeds from sale of administrative sites; modifying certain requirements for environmental learning centers; appropriating money; amending Minnesota Statutes 2006, sections 16A.06, by adding a subdivision; 84.027, by adding a subdivision; 84.0857; 84.0875; 94.16, subdivision 3; 127A.30.

There has been appointed as such committee on the part of the House:

Hansen, Clark, Mariani, Dittrich and Ozment.

Senate File No. 3056 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 13, 2008

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2390, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2390: A bill for an act relating to consumer protection; modifying restrictions on the collection and use of Social Security numbers; amending Minnesota Statutes 2006, section 325E.59, subdivision 3; Minnesota Statutes 2007 Supplement, section 325E.59, subdivision 1.

Senate File No. 2390 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 13, 2008

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 3082:

H.F. No. 3082: A bill for an act relating to retirement; various retirement plans; adding two employment positions to the correctional state employees retirement plan; including certain departments of the Rice Memorial Hospital in Willmar and the Worthington Regional Hospital in privatized public employee retirement coverage; providing for the potential dissolution of the Minnesota Post Retirement Investment Fund; increasing teacher retirement plan reemployed annuitant earnings limitations; temporarily exempting Metropolitan Airports Commission police officers from reemployed annuitant earnings limits; mandating joint and survivor optional annuities rather than single life annuities as basic annuity form; making various changes in retirement plan administrative provisions; clarifying general state employee retirement plan alternative coverage elections by certain unclassified state employees retirement program participants; clarifying direct state aid for the teacher retirement associations; clarifying the handling of unclaimed retirement accounts in the individual retirement account plan; providing for a study of certain Minnesota State Colleges and Universities System tenure track faculty members; modifying the manner in which official actuarial work for public pension plans is performed; allowing pension plans greater latitude in setting salary and payroll assumptions; extending amortization target dates for various retirement plans; making the number and identity of tax-sheltered annuity vendors a mandatory bargaining item for school districts and their employees; allowing a certain firefighter relief association certain benefit increases; providing for certain teacher retirement benefit and contribution increases; allowing security broker-dealers to directly hold local pension plan assets; increasing upmost flexible service pension maximum amounts for volunteer firefighters; creating a voluntary statewide volunteer firefighter retirement plan advisory board within the Public Employees Retirement Association; allowing various retirement plans to accept labor union retired member dues deduction authorizations; authorizing various prior service credit purchases; authorizing certain service credit and coverage transfers; authorizing a disability benefit application to be rescinded; authorizing a retirement coverage termination; providing an additional benefit to certain injured Minneapolis bomb squad officers; allowing certain Independent School District No. 625 school board members to make back defined contribution retirement plan contributions; revising post-2009 additional amortization state aid allocations; modifying PERA-P&F duty disability benefit amounts; authorizing a PERA prior military service credit purchase; revising the administrative duties of the board and the executive director of the Minnesota State Retirement System; increasing pension commission membership; appropriating money; amending Minnesota Statutes 2006, sections 3.85, subdivision 3; 6.67; 11A.18, subdivision 9, by adding subdivisions; 16A.055, subdivision 5; 43A.346, subdivisions 4, 5, 6, 7; 69.011, subdivision 1; 123B.02,

subdivision 15; 127A.50, subdivision 1; 352.03, subdivisions 4, 5; 352.12, subdivision 2; 352.22, subdivision 10; 352.931, subdivision 1; 352.97; 352.98, subdivisions 1, 2, 3, 4, 5; 352D.075, subdivision 2a; 353.01, subdivisions 10, 11a, by adding a subdivision; 353.27, by adding a subdivision; 353.30, subdivision 3; 353.33, subdivision 5; 353.64, subdivision 11; 353.656, subdivision 2; 353D.05, subdivision 2; 353D.12, subdivision 4; 353E.07, subdivision 7; 354.05, subdivisions 37, 38; 354.33, subdivision 5; 354.42, subdivisions 2, 3; 354.44, subdivision 5; 354A.011, subdivision 15a; 354A.12, subdivisions 1, 2a, 3a; 354A.31, subdivisions 3, 4, 4a, 7; 354B.20, by adding a subdivision; 354B.25, subdivision 5, by adding a subdivision; 354C.165; 356.20, subdivisions 1, 2, 3, 4, 4a; 356.214, subdivisions 1, 3, by adding a subdivision; 356.215, subdivisions 1, 2, 3, 8, 11, 18; 356.24, subdivision 1; 356.315, by adding a subdivision; 356.41; 356.46, as amended; 356.47, subdivision 3; 356.551, subdivision 2; 356.611, subdivision 2, by adding a subdivision; 356A.06, subdivisions 1, 7, 8b; 356B.10, subdivision 3; 363A.36, subdivision 1; 383B.914, subdivision 7; 423A.02, subdivision 1b; 424A.001, subdivision 6, by adding a subdivision; 424A.02, subdivisions 3, 7, 9; 424A.05, subdivision 3; 518.003, subdivision 8; Minnesota Statutes 2007 Supplement, sections 43A.346, subdivisions 1, 2; 352.01, subdivision 2a; 352.017, subdivision 2; 352.91, subdivision 3d; 352.955, subdivisions 3, 5; 352D.02, subdivisions 1, 3; 353.01, subdivision 2b; 353.0161, subdivision 2; 353.27, subdivision 14; 353.32, subdivision 1a; 353.656, subdivision 1; 353.657, subdivision 2a; 353F.02, subdivision 4; 354.096, subdivision 2; 354.44, subdivision 6; 354.72, subdivision 2; 354A.12, subdivision 3c; 354C.12, subdivision 4; 356.96, subdivision 1; 422A.06, subdivision 8; Laws 2002, chapter 392, article 2, section 4; Laws 2006, chapter 271, article 5, section 5; proposing coding for new law in Minnesota Statutes, chapters 11A; 352; 353D; 353F; 354; 354C; 356; 423A; repealing Minnesota Statutes 2006, sections 352.96; 354.44, subdivision 6a; 354.465; 354.51, subdivision 4; 354.55, subdivisions 2, 3, 6, 12, 15; 354A.091, subdivisions 1a, 1b; 354A.12, subdivision 3a; 355.629; 356.214, subdivision 2; 356.215, subdivision 2a; Minnesota Statutes 2007 Supplement, section 354A.12, subdivisions 3b, 3c; Laws 1965, chapter 592, sections 3, as amended; 4, as amended; Laws 1967, chapter 575, sections 2, as amended; 3; 4; Laws 1969, chapter 352, section 1, subdivisions 3, 4, 5, 6; Laws 1969, chapter 526, sections 3; 4; 5, as amended; 7, as amended; Laws 1971, chapter 140, sections 2, as amended; 3, as amended; 4, as amended; 5, as amended; Laws 1971, chapter 214, section 1, subdivisions 1, 2, 3, 4, 5; Laws 1973, chapter 304, section 1, subdivisions 3, 4, 5, 6, 7, 8, 9; Laws 1973, chapter 472, section 1, as amended; Laws 1975, chapter 185, section 1; Laws 1985, chapter 261, section 37, as amended; Laws 1991, chapter 125, section 1; Laws 1993, chapter 244, article 4, section 1; Laws 2005, First Special Session chapter 8, article 1, section 23; Minnesota Rules, parts 7905.0100; 7905.0200; 7905.0300; 7905.0400; 7905.0500; 7905.0600; 7905.0700; 7905.0800; 7905.0900; 7905.1000; 7905.1100; 7905.1200; 7905.1300; 7905.1400; 7905.1500; 7905.1600; 7905.1700; 7905.1800; 7905.1900; 7905.2000; 7905.2100; 7905.2200; 7905.2300; 7905.2400; 7905.2450; 7905.2500; 7905.2560; 7905.2600; 7905.2700; 7905.2800; 7905.2900.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Murphy, M.; Kahn; Thissen; Nelson and Smith have been appointed as such committee on the part of the House.

House File No. 3082 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 13, 2008

Senator Betzold moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 3082, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

REPORTS OF COMMITTEES

Senator Pogemiller moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Senator Pogemiller, from the Committee on Rules and Administration, to which was referred

H.F. No. 3090 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
3090	2925				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 3090 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 3090, the second engrossment; and insert the language after the enacting clause of S.F. No. 2925, the third engrossment; further, delete the title of H.F. No. 3090, the second engrossment; and insert the title of S.F. No. 2925, the third engrossment.

And when so amended H.F. No. 3090 will be identical to S.F. No. 2925, and further recommends that H.F. No. 3090 be given its second reading and substituted for S.F. No. 2925, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

Senator Pogemiller, from the Committee on Rules and Administration, to which was referred

H.F. No. 3796 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.

GENERAL ORDERS

3796

CONSENT CALENDAR

3793

CALENDAR

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 3796 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 3796, the third engrossment; and insert the language after the enacting clause of S.F. No. 3793, the first engrossment; further, delete the title of H.F. No. 3796, the third engrossment; and insert the title of S.F. No. 3793, the first engrossment.

And when so amended H.F. No. 3796 will be identical to S.F. No. 3793, and further recommends that H.F. No. 3796 be given its second reading and substituted for S.F. No. 3793, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

SECOND READING OF HOUSE BILLS

H.F. Nos. 3090 and 3796 were read the second time.

MOTIONS AND RESOLUTIONS

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

Senators Saltzman, Michel, Anderson, Lynch and Erickson Ropes introduced—

S.F. No. 3876: A bill for an act relating to the environment; creating an advisory council on development and regulation of consumer products; establishing a comprehensive framework for consumer products that protect, support, and enhance human health, the environment, and economic development; providing appointments; proposing coding for new law in Minnesota Statutes, chapter 325F.

Referred to the Committee on Health, Housing and Family Security.

Senators Anderson, Dahle, Dibble, Erickson Ropes and Doll introduced—

S.F. No. 3877: A bill for an act relating to energy; establishing rate schedule for certain renewable energy projects; requiring a report; proposing coding for new law in Minnesota Statutes, chapter 216B.

Referred to the Committee on Energy, Utilities, Technology and Communications.

Senators Anderson and Pappas introduced—

S.F. No. 3878: A bill for an act relating to health; limiting the use of synthetic turf on certain athletic fields; requiring the commissioner of health to study the impacts of the use of crumb rubber; requiring reports; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 145.

Referred to the Committee on Health, Housing and Family Security.

Senators Wiger, Vickerman, Sieben, Higgins and Langseth introduced—

S.F. No. 3879: A bill for an act relating to insurance; specifying required behavioral health coverage for children and young adults who have autism spectrum disorder; proposing coding for new law in Minnesota Statutes, chapter 62Q.

Referred to the Committee on Commerce and Consumer Protection.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Senator Pogemiller from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 3082: Senators Betzold; Larson; Olson, M.; Lynch and Wergin.

Senator Pogemiller moved that the foregoing appointments be approved. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 2605 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2605

A bill for an act relating to the Metropolitan Council; providing for staggered terms of Metropolitan Council members; amending Minnesota Statutes 2006, section 473.123, subdivision 2a.

May 13, 2008

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 2605 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 2605 be further amended as follows:

Page 1, line 19, delete "A member may only be removed for cause" and reinstate the stricken language

Page 1, line 20, reinstate the stricken language

We request the adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Kathy L. Saltzman, Terri E. Bonoff, Chris Gerlach

House Conferees: (Signed) Sandra Peterson, Julie Bunn, Neil W. Peterson

Senator Saltzman moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2605 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 2605 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 54 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Koering	Olson, G.	Scheid
Bakk	Erickson Ropes	Kubly	Olson, M.	Sieben
Betzold	Fischbach	Langseth	Pappas	Skoe
Bonoff	Foley	Limmer	Pariseau	Skogen
Carlson	Gerlach	Lourey	Pogemiller	Sparks
Chaudhary	Gimse	Lynch	Rest	Stumpf
Cohen	Hann	Metzen	Robling	Tomassoni
Dahle	Higgins	Michel	Rosen	Vickerman
Day	Ingebrigtsen	Moua	Rummel	Wergin
Dibble	Jungbauer	Murphy	Saltzman	Wiger
Dille	Koch	Olseen	Saxhaug	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 26, Senator Pogemiller, Chair of the Committee on Rules and Administration, designated H.F. No. 995 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 995: A resolution memorializing the Governor to take action to prepare a plan of

response and preparation to meet the challenges of Peak Oil.

Was read the third time and placed on its final passage.

The question was taken on the passage of the resolution.

The roll was called, and there were yeas 44 and nays 13, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Kubly	Pappas	Skoe
Bakk	Dille	Langseth	Pogemiller	Skogen
Betzold	Doll	Lourey	Rest	Sparks
Bonoff	Erickson Ropes	Lynch	Robling	Stumpf
Carlson	Fischbach	Metzen	Rummel	Tomassoni
Chaudhary	Foley	Moua	Saltzman	Torres Ray
Clark	Gimse	Murphy	Saxhaug	Vickerman
Cohen	Higgins	Olseen	Scheid	Wiger
Dahle	Koering	Olson, M.	Sieben	

Those who voted in the negative were:

Gerlach	Johnson	Limmer	Pariseau	Wergin
Hann	Jungbauer	Michel	Rosen	
Ingebrigtsen	Koch	Olson, G.	Vandever	

So the resolution passed and its title was agreed to.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

CALL OF THE SENATE

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

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 3138 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 3138

A bill for an act relating to health; changing provisions for handling genetic information; amending Minnesota Statutes 2006, sections 13.386, subdivision 3; 144.05, by adding a subdivision; Minnesota Statutes 2007 Supplement, section 144.125, subdivision 3.

May 13, 2008

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 3138 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 3138 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2006, section 13.386, subdivision 3, is amended to read:

Subd. 3. **Collection, storage, use, and dissemination of genetic information.** (a) Unless otherwise expressly provided by law, genetic information about an individual:

(1) may be collected by a government entity, as defined in section 13.02, subdivision 7a, or any other person only with the written informed consent of the individual;

(2) may be used only for purposes to which the individual has given written informed consent;

(3) may be stored only for a period of time to which the individual has given written informed consent; and

(4) may be disseminated only:

(i) with the individual's written informed consent; or

(ii) if necessary in order to accomplish purposes described by clause (2). A consent to disseminate genetic information under item (i) must be signed and dated. Unless otherwise provided by law, such a consent is valid for one year or for a lesser period specified in the consent.

(b) Notwithstanding paragraph (a), the Department of Health's collection, storage, use, and dissemination of genetic information and blood specimens for testing infants for heritable and congenital disorders are governed by sections 144.125 to 144.128.

Sec. 2. Minnesota Statutes 2007 Supplement, section 144.125, subdivision 3, is amended to read:

Subd. 3. ~~**Objection of parents to test Information provided to parents.** Persons with a duty to perform testing under subdivision 1 shall advise parents of infants (1) that the blood or tissue samples used to perform testing thereunder as well as the results of such testing may be retained by the Department of Health, (2) the benefit of retaining the blood or tissue sample, and (3) that the following options are available to them with respect to the testing: (i) to decline to have the tests, or (ii) to elect to have the tests but to require that all blood samples and records of test results be destroyed within 24 months of the testing. If the parents of an infant object in writing to testing for heritable and congenital disorders or elect to require that blood samples and test results be destroyed, the objection or election shall be recorded on a form that is signed by a parent or legal guardian and made part of the infant's medical record. A written objection exempts an infant from the requirements of this section and section 144.128.~~

(a) Prior to collecting a sample, persons with a duty to perform testing under subdivision 1 must provide parents or legal guardians of infants with a document that provides the following

information:

(1) the blood sample will be used to test for heritable and congenital disorders, the blood sample will be retained by the Department of Health for a period of at least two years and that the blood sample may be used for public health studies and research;

(2) the data that will be collected as a result of the testing;

(3) the alternatives available to the parents set forth in paragraph (c) and that a form to exercise the alternatives is available from the person with a duty to perform testing under subdivision 1;

(4) the benefits of testing and the consequences of a decision to permit or refuse to supply a sample;

(5) the benefits of retaining the blood sample and the consequences of a decision to destroy the blood sample after two years or to permit or decline to have the blood sample used for public health studies and research;

(6) the ways in which the samples and data collected will be stored and used at the Department of Health and elsewhere; and

(7) the Department of Health's Web site address where the forms referenced in paragraph (c) may be obtained.

This document satisfies the requirements of section 13.04, subdivision 2.

(b) The person with a duty to perform testing must record that parents or legal guardians of infants have received the information provided under this subdivision and have had an opportunity to ask questions.

(c) The parent or legal guardian of an infant otherwise subject to testing under this section may object to any of the following:

(1) the testing itself;

(2) the maintenance of the infant's blood samples and test result records for a period longer than 24 months; and

(3) the use of the infant's blood samples and test result records for public health studies and research.

If a parent or legal guardian elects to object to one or more of the alternatives in this paragraph, the election shall be recorded on a form that is signed by the parent or legal guardian. The signed form shall be made part of the infant's medical record and shall be provided to the Department of Health. The signature of the parent or legal guardian is sufficient and no witness to the signature, photo identification, or notarization shall be required. When a parent or legal guardian elects an alternative under this subdivision, the Department of Health must follow the election and section 144.128. A written election exempts an infant from the requirements of this section and section 144.128.

(d) For purposes of this subdivision, "public health studies and research" includes calibrating newborn screening equipment, evaluating existing newborn screening tests to reduce the number of

false positive and false negative results, studying the development of new newborn screening tests for heritable and congenital disorders, and other population-based health studies.

Sec. 3. NEWBORN SCREENING REPORT.

By January 15, 2009, the Department of Health shall report and make recommendations to the legislature on its current efforts for ensuring and enhancing how parents of newborns are fully informed about the newborn screening program and of their rights and options regarding: (1) testing; (2) storage; (3) public health practices, studies, and research; (4) the ability to opt out of the collection of data and specimens related to the testing; and (5) the ability to seek private testing."

Delete the title and insert:

"A bill for an act relating to health; changing provisions for handling genetic information from newborn screening; requiring a report; amending Minnesota Statutes 2006, section 13.386, subdivision 3; Minnesota Statutes 2007 Supplement, section 144.125, subdivision 3."

We request the adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Ann Lynch, Julie A. Rosen, Mee Moua

House Conferees: (Signed) Paul Thissen, Maria Ruud, Mary Liz Holberg

Senator Lynch moved that the foregoing recommendations and Conference Committee Report on S.F. No. 3138 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 3138 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 51 and nays 12, as follows:

Those who voted in the affirmative were:

Anderson	Dille	Marty	Robling	Sparks
Bakk	Doll	Metzen	Rosen	Stumpf
Berglin	Erickson Ropes	Moua	Rummel	Tomassoni
Betzold	Foley	Murphy	Saltzman	Torres Ray
Bonoff	Higgins	Olseen	Saxhaug	Vickerman
Carlson	Ingebrigtsen	Olson, M.	Scheid	Wergin
Clark	Johnson	Pappas	Senjem	Wiger
Cohen	Langseth	Pariseau	Sheran	
Dahle	Latz	Pogemiller	Sieben	
Day	Lourey	Prettner Solon	Skoe	
Dibble	Lynch	Rest	Skogen	

Those who voted in the negative were:

Fischbach	Hann	Kubly	Olson, G.
Gerlach	Jungbauer	Limmer	Ortman
Gimse	Koch	Michel	Vandever

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2605, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2605: A bill for an act relating to the Metropolitan Council; providing for staggered terms of Metropolitan Council members; amending Minnesota Statutes 2006, section 473.123, subdivision 2a.

Senate File No. 2605 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 15, 2008

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 3195, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 3195 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 13, 2008

CONFERENCE COMMITTEE REPORT ON H. F. NO. 3195

A bill for an act relating to environment; establishing an intent to participate in a cap and trade program for greenhouse gas emissions; requiring studies; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 216H.

May 9, 2008

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 3195 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 3195 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **TITLE.**

This act may be cited as the Green Solutions Act of 2008.

Sec. 2. **MIDWESTERN GREENHOUSE GAS ACCORD.**

(a) By January 15, 2009, the commissioner of commerce and the commissioner of the Pollution Control Agency shall submit a report to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over energy policy, business and economic development policy, environmental policy and finance, and transportation policy regarding:

(1) the status of the development of a model rule establishing a regional cap and trade program under the Midwestern Greenhouse Gas Accord;

(2) implementation mechanisms in the model rule, including required legislation;

(3) whether the regional cap and trade program will operate in a time frame that will allow Minnesota to meet the greenhouse gas reductions goals under Minnesota Statutes, section 216H.02, subdivision 1;

(4) an evaluation of legislation enacted or pending in Congress to implement a federal cap and trade program and whether implementation of a regional program is consistent with a federal program;

(5) the economic, environmental, and public health impact study under section 3, subdivision 2; and

(6) a potential cap and trade revenue study under section 3, subdivision 3.

If a model rule in accord with the state's emissions reduction goals is not yet ready for adoption under the Midwestern Greenhouse Gas Accord, or is unlikely to be adopted, the report must identify options for Minnesota to supplement the regional agreement with state policies, to join another regional cap and trade program, or to implement a cap and trade program in Minnesota alone.

(b) The Legislative Greenhouse Gas Accord Advisory Group is composed of six members of the legislature, appointed as follows:

(1) three members of the senate appointed by the Subcommittee on Committees of the Committee on Rules and Administration, including one member of the minority; and

(2) three members of the house of representatives appointed by the speaker of the house of representatives, including one member of the minority party.

The legislative advisory group serves in an advisory capacity to the governor's Midwestern

Greenhouse Gas Accord stakeholder group, and must receive regular briefings from that group, in addition to participating and offering advice in meetings where regional negotiations take place with respect to the accord or to any other energy issue being analyzed by an entity created by the Midwestern Governors Association at its November 2007 Energy Summit. The appointing authorities under this paragraph must complete their appointments by June 1, 2008. The advisory group expires when the Midwestern Greenhouse Gas Accord stakeholder group is dissolved.

(c) Any cap and trade agreements entered into under the Midwestern Greenhouse Gas Accord are not effective in Minnesota until approved by a law enacted by the legislature.

Sec. 3. ECONOMIC, ENVIRONMENTAL, AND PUBLIC HEALTH IMPACT AND POTENTIAL REVENUES STUDIES.

Subdivision 1. **Submission of studies.** By January 15, 2009, the commissioner of commerce and the commissioner of the Pollution Control Agency shall submit to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over business and economic development, energy, and environmental policy and finance the two studies, prepared by expert consultants, described in this section.

Subd. 2. **Economic, environmental, and public health impact study.** The commissioner of commerce shall arrange with the Midwestern Governors Association for a study to be conducted by expert consultants that analyzes the economic, environmental, and public health costs and benefits to Minnesota of a cap and trade program. The study must consider the impact of a cap and trade program on individual industrial sectors subject to the program and on the state economy and consumers, and how expenditures of any auction revenues on the measures identified in subdivision 4 can reduce the economic costs and increase the economic, environmental, and public health benefits. The study must also include:

(1) an estimate of allowance prices and rates of investment by entities subject to a cap and trade program in infrastructure and equipment to reduce emissions of greenhouse gases over time;

(2) estimates of the impact of the program on energy costs, the impact of energy cost changes on businesses and households, and recommendations on how to avoid regressive impacts;

(3) an analysis of options to mitigate adverse competitive impacts on state businesses and methods to reduce disruptive impacts on workers, businesses, and consumers;

(4) an analysis of various mechanisms for protecting jobs in energy intensive industries subject to competition from outside the Midwestern Greenhouse Gas Accord region, including mining, pulp and paper, petroleum refining, steel, and chemicals, and an analysis of possible mechanisms to account for the greenhouse gas emissions associated with the production and transportation of imported goods;

(5) an analysis of the energy cost impacts on homes and businesses, job growth, new business development, energy balance of trade, and environmental and public health co-benefits;

(6) an analysis of various mechanisms to provide for equity to communities at risk of disproportionate economic or environmental impacts; and

(7) an analysis of the effect of adopting a cap and trade program on the level of foreign and domestic investment in Minnesota.

The study must consider the data and policy recommendations developed through the Minnesota Climate Change Advisory Group as well as the growing literature related to reducing greenhouse gas emissions.

Subd. 3. **Potential cap and trade revenue study.** The commissioner of commerce shall arrange with the Midwestern Governors Association for a study to be conducted by expert consultants on potential revenues to the state from a cap and trade program and how revenues could be spent to mitigate economic disparities resulting from implementation of a cap and trade program. The study must include:

- (1) projections of likely revenues if greenhouse gas emission allowances are auctioned;
- (2) a detailed estimate of the degree to which different levels of expenditures of auction proceeds on the options listed under subdivision 4, clauses (1) through (7), would:
 - (i) reduce greenhouse gas emissions;
 - (ii) reduce economic costs to industry and households;
 - (iii) yield jobs and other economic benefits by stimulating economic activity, promoting the growth of new businesses, reducing the amount of money exported from the state to purchase fossil fuels, and other means;
 - (iv) result in environmental and public health co-benefits by reducing pollutants other than greenhouse gases, improving habitat, or other means; and
 - (v) otherwise meet the goals identified in subdivision 5;
- (3) a discussion of the potential for allowances allocated by a cap and trade program to lead to unfair economic advantage or windfall profits rather than be used to reduce consumer prices; and
- (4) options for criteria that decision makers can use to determine how to allocate expenditures among the spending options listed under subdivision 4, balancing the goals set forth in subdivision 5.

Subd. 4. **Expenditures to be studied.** The studies required under subdivisions 2 and 3 must consider the impacts of the following types of expenditures:

- (1) direct per capita rebates to Minnesotans;
- (2) grants and incentives to consumers to invest in energy efficiency and utilize renewable energy sources or in other technologies, products, or practices that help Minnesotans reduce energy costs, energy consumption, and greenhouse gas emissions, including incentives for telecommuting;
- (3) financial assistance to businesses that install technologies that reduce greenhouse gas emissions, targeting energy-intensive industries facing competitors not subject to comparable regulation, including, but not limited to, mining, pulp and paper, refining, chemicals, and steel;
- (4) investments in public infrastructure that reduce greenhouse gas emissions;
- (5) investments in worker training and retraining programs;
- (6) incentives for terrestrial and geologic carbon sequestration; and

(7) at least one scenario in which a majority of expenditures is directed to uses under clauses (1) and (2).

Subd. 5. **Study criteria.** The study required under subdivision 2 must determine the extent to which expenditures on the measures identified in subdivision 4 assist Minnesota in its transition to a low greenhouse gas-emitting economy and increase the economic gains and reduce the dislocating impacts of the transition. Specifically, the study must assess the extent to which expenditures meet the following goals:

- (1) produce cost-effective emission reductions;
- (2) increase sustainable economic development, job creation, and job growth;
- (3) reduce greenhouse gas emissions in sectors that do not participate in a cap and trade program;
- (4) reduce disruptive economic impacts of the transition on workers, businesses, and consumers;
- (5) equitably distribute the costs and benefits among state residents, communities, and economic sectors;
- (6) assist low-income and other consumers to reduce the costs associated with greenhouse gas emissions; and
- (7) protect and enhance public health, environmental quality, wildlife habitat, and the state's natural resources.

Sec. 4. **GOVERNANCE STUDY.**

The commissioner of commerce shall request the Board of Regents of the University of Minnesota to prepare a study to be submitted by January 15, 2009, to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over business and economic development, energy, and environmental policy and finance on governance options for determining expenditures of potential revenue to the state resulting from a cap and trade program. The study must examine:

- (1) the role of the legislature, citizens, technical experts, and state agencies in decisions on allocating funds; and
- (2) innovative decision-making structures and processes, including the Legislative-Citizen Commission on Minnesota Resources, and other examples in Minnesota and other states and countries that may offer useful models.

Sec. 5. **APPROPRIATION.**

Of the amounts appropriated from the special revenue fund in the second year to the commissioner of commerce under Laws 2007, chapter 57, article 2, section 3, subdivision 6, clause (7), up to \$500,000 is for the economic impact and potential revenue studies under section 3, and the governance study under section 4. The commissioner shall provide funding from this appropriation through a contract with the Midwestern Governors Association for grants to technical experts to complete the studies required under section 3. The commissioner shall transfer up to \$75,000 to the University of Minnesota for the study required under section 4."

Delete the title and insert:

"A bill for an act relating to environment; establishing the Legislative Greenhouse Gas Advisory Group; requiring studies and reports to the legislature regarding cap and trade program for greenhouse gases; appropriating money."

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed) Kate Knuth, Aaron Peterson, John Berns

Senate Conferees: (Signed) Ellen R. Anderson, Gary W. Kubly, Dennis R. Frederickson

Senator Anderson moved that the foregoing recommendations and Conference Committee Report on H.F. No. 3195 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 3195 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 41 and nays 22, as follows:

Those who voted in the affirmative were:

Anderson	Dibble	Lourey	Prettner Solon	Sparks
Bakk	Doll	Lynch	Rest	Stumpf
Berglin	Erickson Ropes	Marty	Rummel	Torres Ray
Betzold	Foley	Metzen	Saltzman	Vickerman
Bonoff	Higgins	Moua	Saxhaug	Wiger
Carlson	Kubly	Olseen	Scheid	
Clark	Langseth	Olson, M.	Sheran	
Cohen	Larson	Pappas	Sieben	
Dahle	Latz	Pogemiller	Skogen	

Those who voted in the negative were:

Day	Hann	Koering	Pariseau	Tomassoni
Dille	Ingebrigtsen	Limmer	Robling	Vandev eer
Fischbach	Johnson	Michel	Rosen	
Gerlach	Jungbauer	Olson, G.	Senjem	
Gimse	Koch	Ortman	Skoe	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 3420, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 3420 is herewith transmitted to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 15, 2008

CONFERENCE COMMITTEE REPORT ON H. F. NO. 3420

A bill for an act relating to local government; revising procedures and fees charged by county registrars of title for registering supplemental declarations of common interest communities; amending Minnesota Statutes 2006, sections 508.82, subdivision 1; 515B.1-116.

May 13, 2008

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 3420 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 3420 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

REGISTRAR OF TITLES

Section 1. Minnesota Statutes 2006, section 508.82, subdivision 1, is amended to read:

Subdivision 1. **Standard documents.** The fees to be charged by the registrar of titles shall be and not exceed the following:

(1) of the fees provided herein, \$1.50 of the fees collected under clauses (2), (3), (4), (11), (13), (15), (17), and (18) for filing or memorializing shall be paid to the state treasury pursuant to section 508.75 and credited to the general fund;

(2) for registering a first certificate of title, including issuing a copy of it, \$46. Pursuant to clause (1), distribution of this fee is as follows:

(i) \$10.50 shall be paid to the state treasury and credited to the general fund;

(ii) \$10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3; and

(iii) \$25.50 shall be deposited in the county general fund;

(3) for registering each instrument transferring the fee simple title for which a new certificate of title is issued and for the registration of the new certificate of title, including a copy of it, \$46. Pursuant to clause (1), distribution of this fee is as follows:

(i) \$12 shall be paid to the state treasury and credited to the general fund;

- (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3; and
 - (iii) \$24 shall be deposited in the county general fund;
- (4) for the entry of each memorial on a certificate, \$46. For multiple certificate entries, \$20 thereafter. Pursuant to clause (1), distribution of this fee is as follows:
- (i) \$12 shall be paid to the state treasury and credited to the general fund;
 - (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3;
 - (iii) \$24 shall be deposited in the county general fund; and
 - (iv) \$20 shall be deposited in the county general fund for each multiple entry used;
- (5) for issuing each residue certificate and each additional new certificate, \$40;
- (6) for exchange certificates, \$20 for each certificate canceled and \$20 for each new certificate issued;
- (7) for each certificate showing condition of the register, \$50;
- (8) for any certified copy of any instrument or writing on file or recorded in the registrar of titles' office, \$10;
- (9) for a noncertified copy of any certificate of title, other than the copies issued under clauses (2) and (3), any instrument or writing on file or recorded in the office of the registrar of titles, or any specified page or part of it, an amount as determined by the county board for each page or fraction of a page specified. If computer or microfilm printers are used to reproduce the instrument or writing, a like amount per image;
- (10) for a noncertified copy of any document submitted for recording, if the original document is accompanied by a copy or duplicate original, \$2. Upon receipt of the copy or duplicate original and payment of the fee, a registrar of titles shall return it marked "copy" or "duplicate," showing the recording date and, if available, the document number assigned to the original;
- (11) for filing two copies of any plat, other than a CIC plat complying with section 515B.2-110, paragraph (c), in the office of the registrar, \$56. Pursuant to clause (1), distribution of this fee is as follows:
- (i) \$12 shall be paid to the state treasury and credited to the general fund;
 - (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3; and
 - (iii) \$34 shall be deposited in the county general fund;
- (12) for any other service under this chapter, such fee as the court shall determine;
- ~~(13) for filing an amendment to a declaration in accordance with chapter 515, \$46 for each certificate upon which the document is registered and for multiple certificate entries, \$20 thereafter; \$56 for an amended floor plan filed in accordance with chapter 515. (13) for filing any document affecting two or more units in a condominium governed by chapter 515, \$46 for the first certificate upon which the document is registered, and for multiple certificate entries, \$20 for each additional certificate upon which the document is registered. For purposes of this paragraph, an amendment~~

to the declaration of a condominium governed by chapter 515 and a related amendment to the condominium floor plans shall be considered a single document, and the filing fee shall be \$56 for the first certificate upon which the document is registered, and for multiple certificate entries, \$20 for each additional certificate upon which the document is registered. Pursuant to clause (1), distribution of this fee is as follows:

- (i) \$12 shall be paid to the state treasury and credited to the general fund;
- (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3;
- (iii) \$24 shall be deposited in the county general fund for amendment to a declaration;
- (iv) \$20 shall be deposited in the county general fund for each multiple entry used; and
- (v) \$34 shall be deposited in the county general fund for an amended floor plan;
- (14) for issuance of a CECT pursuant to section 508.351, \$40;

~~(15) for filing an amendment to a common interest community declaration, including a supplemental declaration, and plat or amendment complying with section 515B.2-110, subsection (c), \$46 for the first certificate upon which the document is registered and for multiple certificate entries, \$20 thereafter and \$56 for the filing of the condominium or common interest community plat or amendment. See section 515B.1-116 for special requirement relating to a common interest community.~~ (15) for filing a common interest community declaration and a CIC plat complying with section 515B.2-110, paragraph (c); an amendment to a common interest community declaration and a related amendment to a CIC plat complying with section 515B.2-110, paragraph (c); or a supplemental declaration and a related supplemental CIC plat complying with section 515B.2-110, paragraph (c), each of which related documents shall be considered a single document, the filing fee shall be \$56 for the first certificate upon which the document is registered, and for multiple certificate entries, \$20 for each additional certificate upon which the document is registered. For filing any other document affecting two or more units in a common interest community, the filing fee shall be \$46 for the first certificate upon which the document is registered, and for multiple certificate entries, \$20 for each additional certificate upon which the document is registered. The same fees shall apply to filing any document affecting two or more units or other parcels subject to a master declaration. Pursuant to clause (1), distribution of this fee is as follows:

- (i) \$12 shall be paid to the state treasury and credited to the general fund;
- (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3;
- (iii) \$24 shall be deposited in the county general fund for the filing of an amendment complying with section 515B.2-110, subsection (c);
- (iv) \$20 shall be deposited in the county general fund for each multiple entry used; and
- (v) \$34 shall be deposited in the county general fund for the filing of a condominium or CIC plat or amendment;

(16) for a copy of a condominium floor plan filed in accordance with chapter 515, or a copy of a common interest community plat complying with section 515B.2-110, subsection (c), the fee shall be \$1 for each page of the floor plan or common interest community plat with a minimum fee of \$10;

(17) for the filing of a certified copy of a plat of the survey pursuant to section 508.23 or 508.671, \$46. Pursuant to clause (1), distribution of this fee is as follows:

- (i) \$12 shall be paid to the state treasury and credited to the general fund;
- (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3; and
- (iii) \$24 shall be deposited in the county general fund;

(18) for filing a registered land survey in triplicate in accordance with section 508.47, subdivision 4, \$56. Pursuant to clause (1), distribution of this fee is as follows:

- (i) \$12 shall be paid to the state treasury and credited to the general fund;
- (ii) \$10 shall be deposited in the technology fund pursuant to section 357.18, subdivision 3; and
- (iii) \$34 shall be deposited in the county general fund; and

(19) for furnishing a certified copy of a registered land survey in accordance with section 508.47, subdivision 4, \$15.

Sec. 2. Minnesota Statutes 2006, 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, 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 \$46 for the first ten affected certificates and \$10 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)~~ (e) 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.

ARTICLE 2

TRANSFER ON DEATH DEEDS

Section 1. Minnesota Statutes 2006, 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) 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~~ the person's 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) 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; ~~and~~ (5) the person's legal title or interest at the time of the person's death in real property transferred under a transfer on death deed under section 507.071, or in the proceeds from the subsequent sale of the person's interest in the real property. 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) 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. 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.

Sec. 2. Minnesota Statutes 2006, 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 and the person's legal title or interest at the time of the person's death in real property transferred to a beneficiary under a transfer on death deed under section 507.071, or in the proceeds from the subsequent sale of the person's interest in the transferred real property.

(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) 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) 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) 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.

Sec. 3. Minnesota Statutes 2006, section 272.12, is amended to read:

272.12 CONVEYANCES, TAXES PAID BEFORE RECORDING.

When:

- (a) a deed or other instrument conveying land,
- (b) a plat of any town site or addition thereto,
- (c) a survey required pursuant to section 508.47,
- (d) a condominium plat subject to chapter 515 or 515A or a declaration that contains such a plat,
or
- (e) a common interest community plat subject to chapter 515B or a declaration that contains such a plat,

is presented to the county auditor for transfer, the auditor shall ascertain from the records if there be taxes delinquent upon the land described therein, or if it has been sold for taxes. An assignment of a sheriff's or referee's certificate of sale, when the certificate of sale describes real estate, and certificates of redemption from mortgage or lien foreclosure sales, when the certificate of redemption encompasses real estate and is issued to a junior creditor, are considered instruments conveying land for the purposes of this section and section 272.121. If there are taxes delinquent, the auditor shall certify to the same; and upon payment of such taxes, or in case no taxes are delinquent, shall transfer the land upon the books of the auditor's office, and note upon the instrument, over official signature, the words, "no delinquent taxes and transfer entered," or, if the land described has been sold or assigned to an actual purchaser for taxes, the words "paid by sale of land described within;" and, unless such statement is made upon such instrument, the county recorder or the registrar of titles shall refuse to receive or record the same; provided, that sheriff's or referees' certificates of sale on execution or foreclosure of a lien or mortgage, certificates of redemption from mortgage or lien foreclosure sales issued to the redeeming mortgagor or lienee, deeds of distribution made by a personal representative in probate proceedings, transfer on death deeds under section 507.071, decrees and judgments, receivers receipts, patents, and copies of town or statutory city plats, in case the original plat filed in the office of the county recorder has been lost or destroyed, and the instruments releasing, removing and discharging reversionary and forfeiture provisions affecting title to land and instruments releasing, removing or discharging easement rights in land or building or other restrictions, may be recorded without such certificate; and, provided that instruments conveying land and, as appurtenant thereto an easement over adjacent tract or tracts of land, may be recorded without such certificate as to the land covered by such easement; and provided further, that any instrument granting an easement made in favor of any public utility or pipe line for conveying gas, liquids or solids in suspension, in the nature of a right-of-way over, along, across or under a tract of land may be recorded without such certificate as to the land covered by such easement. Documents governing homeowners associations of condominiums, townhouses, common interest ownership communities, and other planned unit developments may be recorded without the auditor's certificate to the extent provided in section 515B.1-116(f).

A deed of distribution made by a personal representative in a probate proceeding, a decree, or a judgment that conveys land shall be presented to the county auditor, who shall transfer the land upon the books of the auditor's office and note upon the instrument, over official signature, the words, "transfer entered", and the instrument may then be recorded. A decree or judgment that affects title to land but does not convey land may be recorded without presentation to the auditor.

A violation of this section by the county recorder or the registrar of titles shall be a gross misdemeanor, and, in addition to the punishment therefor, the recorder or registrar shall be liable to the grantee of any instrument so recorded for the amount of any damages sustained.

When, as a condition to permitting the recording of deed or other instrument affecting the title to real estate previously forfeited to the state under the provisions of sections 281.16 to 281.25, county officials, after such real estate has been purchased or repurchased, have required the payment of taxes erroneously assumed to have accrued against such real estate after forfeiture and before the date of purchase or repurchase, the sum required to be so paid shall be refunded to the persons entitled thereto out of moneys in the funds in which the sum so paid was placed. Delinquent taxes are those taxes deemed delinquent under section 279.02.

Sec. 4. Minnesota Statutes 2006, section 287.22, is amended to read:

287.22 EXEMPTIONS.

The tax imposed by section 287.21 does not apply to:

- (1) An executory contract for the sale of real property under which the purchaser is entitled to or does take possession of the real property, or any assignment or cancellation of the contract;
- (2) A mortgage or an amendment, assignment, extension, partial release, or satisfaction of a mortgage;
- (3) A will;
- (4) A plat;
- (5) A lease, amendment of lease, assignment of lease, or memorandum of lease;
- (6) A deed, instrument, or writing in which the United States or any agency or instrumentality thereof is the grantor, assignor, transferor, conveyor, grantee, or assignee;
- (7) A deed for a cemetery lot or lots;
- (8) A deed of distribution by a personal representative;
- (9) A deed to or from a co-owner partitioning their undivided interest in the same piece of real property;
- (10) A deed or other instrument of conveyance issued pursuant to a permanent school fund land exchange under section 92.121 and related laws;
- (11) A referee's or sheriff's certificate of sale in a mortgage or lien foreclosure sale;
- (12) A referee's, sheriff's, or certificate holder's certificate of redemption from a mortgage or lien foreclosure sale issued to the redeeming mortgagor or lienee;
- (13) A deed, instrument, or writing which grants, creates, modifies, or terminates an easement;
and
- (14) A decree of marriage dissolution, as defined in section 287.01, subdivision 4, or a deed or other instrument between the parties to the dissolution made pursuant to the terms of the decree;
and

(15) A transfer on death deed under section 507.071.

Sec. 5. [507.071] TRANSFER ON DEATH DEEDS.

Subdivision 1. **Definitions.** For the purposes of this section the following terms have the meanings given:

(a) "Beneficiary" or "grantee beneficiary" means a person or entity named as a grantee beneficiary in a transfer on death deed, including a successor grantee beneficiary.

(b) "County agency" means the county department or office designated to recover medical assistance benefits from the estates of decedents.

(c) "Grantor owner" means an owner named as a grantor in a transfer on death deed upon whose death the conveyance or transfer of the described real property is conditioned. Grantor owner does not include a spouse who joins in a transfer on death deed solely for the purpose of conveying or releasing statutory or other marital interests in the real property to be conveyed or transferred by the transfer on death deed.

(d) "Owner" means a person having an ownership or other interest in all or part of the real property to be conveyed or transferred by a transfer on death deed. Owner does not include a spouse who joins in a transfer on death deed solely for the purpose of conveying or releasing statutory or other marital interests in the real property to be conveyed or transferred by the transfer on death deed.

(e) "Recorded" means recorded in the office of the county recorder or registrar of titles, as appropriate for the real property described in the instrument to be recorded.

(f) "State agency" means the Department of Human Services or any successor agency.

(g) "Transfer on death deed" means a deed authorized under this section.

Subd. 2. **Effect of transfer on death deed.** A deed that conveys or assigns an interest in real property, including a mortgage, judgment, or any other lien on real property, to a grantee beneficiary and that expressly states that the deed is only effective on the death of one or more of the grantor owners, transfers the interest to the grantee beneficiary upon the death of the grantor owner upon whose death the conveyance or transfer is stated to be effective, but subject to the survivorship provisions and requirements of section 524.2-702. A transfer on death deed must comply with all provisions of Minnesota law applicable to deeds of real property including, but not limited to, the provisions of sections 507.02, 507.24, 507.34, 508.48, and 508A.48.

Subd. 3. **Rights of creditors and rights of the state and county under sections 246.53, 256B.15, 256D.16, 261.04, and 514.981.** The interest transferred to a beneficiary under a transfer on death deed after the death of a grantor owner is transferred subject to all effective conveyances, assignments, contracts, mortgages, deeds of trust, liens, security pledges, judgments, tax liens, and other encumbrances made by the grantor owner or to which the property was subject during the grantor owner's lifetime, including but not limited to, any claim by a surviving spouse or any claim or lien by the state or county agency authorized by section 246.53, 256B.15, 256D.16, 261.04, or 514.981, if other assets of the deceased owner's estate are insufficient to pay the amount of any such claim. A beneficiary to whom the interest is transferred after the death of a grantor owner shall be liable to account to the state or county agency with a claim or lien authorized by section

246.53, 256B.15, 256D.16, 261.04, or 514.981, to the extent necessary to discharge any such claim remaining unpaid after application of the assets of the deceased grantor owner's estate, but such liability shall be limited to the value of the interest transferred to the beneficiary. To establish compliance with this subdivision and subdivision 23, the beneficiary must record a clearance certificate issued in accordance with subdivision 23 in each county in which the real property described in the transfer on death deed is located.

Subd. 4. **Multiple grantee beneficiaries.** A transfer on death deed may designate multiple grantee beneficiaries to take title as joint tenants, as tenants in common or in any other form of ownership or tenancy that is valid under the laws of this state.

Subd. 5. **Successor grantee beneficiaries.** A transfer on death deed may designate one or more successor grantee beneficiaries or a class of successor grantee beneficiaries, or both. If the transfer on death deed designates successor grantee beneficiaries or a class of successor grantee beneficiaries, the deed shall state the condition under which the interest of the successor grantee beneficiaries would vest.

Subd. 6. **Multiple joint tenant grantors.** If an interest in real property is owned as joint tenants, a transfer on death deed executed by all of the owners that conveys an interest in real property to one or more grantee beneficiaries transfers the interest to the grantee beneficiary or beneficiaries effective only after the death of the last surviving grantor owner. If the last surviving joint tenant owner did not execute the transfer on death deed, the deed is ineffective to transfer any interest and the deed is void. An estate in joint tenancy is not severed or affected by the subsequent execution of a transfer on death deed and the right of a surviving joint tenant owner who did not execute the transfer on death deed shall prevail over a grantee beneficiary named in a transfer on death deed unless the deed specifically states that it severs the joint tenancy ownership.

Subd. 7. **Execution by attorney-in-fact.** A transfer on death deed may be executed by a duly appointed attorney-in-fact pursuant to a power of attorney which grants the attorney-in-fact the authority to execute deeds.

Subd. 8. **Recording requirements and authorization.** A transfer on death deed is valid if the deed is recorded in a county in which at least a part of the real property described in the deed is located and is recorded before the death of the grantor owner upon whose death the conveyance or transfer is effective. A transfer on death deed is not effective for purposes of section 507.34, 508.47, or 508A.47 until the deed is recorded in the county in which the real property is located. When a transfer on death deed is presented for recording, no certification by the county auditor as to transfer of ownership and current and delinquent taxes shall be required or made and the transfer on death deed shall not be required to be accompanied by a certificate of real estate value. A transfer on death deed that otherwise satisfies all statutory requirements for recording may be recorded and shall be accepted for recording in the county in which the property described in the deed is located. If any part of the property described in the transfer on death deed is registered property, the registrar of titles shall accept the transfer on death deed for recording only if at least one of the grantors who executes the transfer on death deed appears of record to have an ownership interest in the property described in the deed. No certification or approval of a transfer on death deed shall be required of the examiner of titles prior to recording of the deed in the office of the registrar of titles.

Subd. 9. **Deed to trustee or other entity.** A transfer on death deed may transfer an interest in real property to the trustee of an inter vivos trust even if the trust is revocable, to the trustee of a

testamentary trust or to any other entity legally qualified to hold title to real property under the laws of this state.

Subd. 10. **Revocation or modification of transfer on death deed.** (a) A transfer on death deed may be revoked at any time by the grantor owner or, if there is more than one grantor owner, by any of the grantor owners. To be effective, the revocation must be recorded in the county in which at least a part of the real property is located before the death of the grantor owner or owners who execute the revocation. The revocation is not effective for purposes of section 507.34, 508.47, or 508A.47 until the revocation is recorded in the county in which the real property is located. Subject to subdivision 6, if the real property is owned as joint tenants and if the revocation is not executed by all of the grantor owners, the revocation is not effective unless executed by the last surviving grantor owner.

(b) If a grantor owner conveys to a third party, subsequent to the recording of the transfer on death deed, by means other than a transfer on death deed, all or a part of such grantor owner's interest in the property described in the transfer on death deed, no transfer of the conveyed interest shall occur on such grantor owner's death and the transfer on death deed shall be ineffective as to the conveyed or transferred interests, but the transfer on death deed remains effective with respect to the conveyance or transfer on death of any other interests described in the transfer on death deed owned by the grantor owner at the time of the grantor owner's death.

(c) A transfer on death deed is a "governing instrument" within the meaning of section 524.2-804 and, except as may otherwise be specifically provided for in the transfer on death deed, is subject to the same provisions as to revocation, revival, and nonrevocation set forth in section 524.2-804.

Subd. 11. **Antilapse; deceased beneficiary; words of survivorship.** (a) If a grantee beneficiary who is a grandparent or lineal descendant of a grandparent of the grantor owner fails to survive the grantor owner, the issue of the deceased grantee beneficiary who survive the grantor owner take in place of the deceased grantee beneficiary. If they are all of the same degree of kinship to the deceased grantee beneficiary, they take equally. If they are of unequal degree, those of more remote degree take by right of representation.

(b) For the purposes of this subdivision, words of survivorship such as, in a conveyance to an individual, "if he or she survives me," or, in a class gift, to "my surviving children," are a sufficient indication of intent to condition the conveyance or transfer upon the beneficiary surviving the grantor owner.

Subd. 12. **Lapse.** If all beneficiaries and all successor beneficiaries, if any, designated in a transfer on death deed, and also all successor beneficiaries who would take under the antilapse provisions of subdivision 11, fail to survive the grantor owner or the last survivor of the grantor owners if there are multiple grantor owners, if the beneficiary is a trust which has been revoked prior to the grantor owner's death, or if the beneficiary is an entity no longer in existence at the grantor owner's death, no transfer shall occur and the transfer on death deed is void.

Subd. 13. **Multiple transfer on death deeds.** If a grantor owner executes and records more than one transfer on death deed conveying the same interest in real property or a greater interest in the real property, the transfer on death deed that has the latest acknowledgment date and that is recorded before the death of the grantor owner upon whose death the conveyance or transfer is conditioned is the effective transfer on death deed and all other transfer on death deeds, if any, executed by the grantor owner or the grantor owners are ineffective to transfer any interest and are void.

Subd. 14. **Nonademption; unpaid proceeds of sale, condemnation, or insurance; sale by conservator or guardian.** If at the time of the death of the grantor owner upon whose death the conveyance or transfer is stated to be effective, the grantor owner did not own a part or all of the real property described in the transfer on death deed, no conveyance or transfer to the beneficiary of the nonowned part of the real property shall occur upon the death of the grantor owner and the transfer on death deed is void as to the nonowned part of the real property, but the beneficiary shall have the same rights to unpaid proceeds of sale, condemnation or insurance, and, if sold by a conservator or guardian of the grantor owner during the grantor owner's lifetime, the same rights to a general pecuniary devise, as that of a specific devisee as set forth in section 524.2-606.

Subd. 15. **Nonexoneration.** Except as otherwise provided in subdivision 3, a conveyance or transfer under a transfer on death deed passes the described property subject to any mortgage or security interest existing at the date of death of the grantor owner, without right of exoneration, regardless of any statutory obligations to pay the grantor owner's debts upon death and regardless of a general directive in the grantor owner's will to pay debts.

Subd. 16. **Disclaimer by beneficiary.** A grantee beneficiary's interest under a transfer on death deed may be disclaimed as provided in section 501B.86, or as otherwise provided by law.

Subd. 17. **Effect on other conveyances.** This section does not prohibit other methods of conveying property that are permitted by law and that have the effect of postponing ownership or enjoyment of an interest in real property until the death of the owner. This section does not invalidate any deed that is not a transfer on death deed and that is otherwise effective to convey title to the interests and estates described in the deed that is not recorded until after the death of the owner.

Subd. 18. **Notice, consent, and delivery not required.** The signature, consent or agreement of, or notice to, a grantee beneficiary under a transfer on death deed, or delivery of the transfer on death deed to the grantee beneficiary, is not required for any purpose during the lifetime of the grantor owner.

Subd. 19. **Nonrevocation by will.** A transfer on death deed that is executed, acknowledged, and recorded in accordance with this section is not revoked by the provisions of a will.

Subd. 20. **Proof of survivorship and clearance from public assistance claims and liens; recording.** An affidavit of identity and survivorship with a certified copy of a record of death as an attachment may be combined with a clearance certificate under this section and the combined documents may be recorded separately or as one document in each county in which the real estate described in the clearance certificate is located. The affidavit, record of death, and clearance certificate, whether combined or separate, shall be prima facie evidence of the facts stated in each, and the registrar of titles may rely on the statements to transfer title to the property described in the clearance certificate.

Subd. 21. **After-acquired property.** Except as provided in this subdivision, a transfer on death deed is not effective to transfer any interest in real property acquired by a grantor owner subsequent to the date of signing of a transfer on death deed. A grantor owner may provide by specific language in a transfer on death deed that the transfer on death deed will apply to any interest in the described property acquired by the grantor owner after the signing or recording of the deed.

Subd. 22. **Anticipatory alienation prohibited.** The interest of a grantee beneficiary under a

transfer on death deed which has not yet become effective is not subject to alienation; assignment; encumbrance; appointment or anticipation by the beneficiary; garnishment; attachment; execution or bankruptcy proceedings; claims for alimony, support, or maintenance; payment of other obligations by any person against the beneficiary; or any other transfer, voluntary or involuntary, by or from any beneficiary.

Subd. 23. Clearance for public assistance claims and liens. Any person claiming an interest in real property conveyed or transferred by a transfer on death deed, or the person's attorney or other agent, may apply to the county agency in the county in which the real property is located for a clearance certificate for the real property described in the transfer on death deed. The application for a clearance certificate and the clearance certificate must contain the legal description of each parcel of property covered by the clearance certificate. The county agency shall provide a sufficient number of clearance certificates to allow a clearance certificate to be recorded in each county in which the real property described in the transfer on death deed is located. The real property described in the clearance certificate is bound by any conditions or other requirements imposed by the county agency as specified in the clearance certificate. If the real property is registered property, a new certificate of title must not be issued until the clearance certificate is recorded. If the clearance certificate shows the continuation of a medical assistance claim or lien after issuance of the clearance certificate, the real property remains subject to the claim or lien. If the real property is registered property, the clearance certificate must be carried forward as a memorial in any new certificate of title. The application shall contain the same information and shall be submitted, processed, and resolved in the same manner and on the same terms and conditions as provided in section 525.313 for a clearance certificate in a decree of descent proceeding, except that a copy of a notice of hearing does not have to accompany the application. The application may contain a statement that the applicant, after reasonably diligent inquiry, is not aware of the existence of a predeceased spouse or the existence of a claim which could be recovered under section 246.53, 256B.15, 256D.16, 261.04, or 514.981. If the county agency determines that a claim or lien exists under section 246.53, 256B.15, 256D.16, 261.04, or 514.981, the provisions of section 525.313 shall apply to collection, compromise, and settlement of the claim or lien. A person claiming an interest in real property transferred or conveyed by a transfer on death deed may petition or move the district court, as appropriate, in the county in which the real property is located or in the county in which a probate proceeding affecting the estate of the grantor of the transfer on death deed is pending, for an order allowing sale of the real property free and clear of any public assistance claim or lien but subject to disposition of the sale proceeds as provided in section 525.313. On a showing of good cause and subject to such notice as the court may require, the court without hearing may issue an order allowing the sale free and clear of any public assistance claim or lien on such terms and conditions as the court deems advisable to protect the interests of the state or county agency.

Subd. 24. Form of transfer on death deed. A transfer on death deed may be substantially in the following form:

Transfer on Death Deed

I (we) _____ (grantor owner or owners and spouses, if any, with marital status designated), grantor(s), hereby convey(s) and quitclaim(s) to _____ (grantee beneficiary, whether one or more) effective (check only one of the following)

___ on the death of the grantor owner, if only one grantor is named above, or on the

death of the last of the grantor owners to die, if more than one grantor owner is named above, or

_____ on the death of (name of grantor owner)

_____ (must be one of the grantor owners named above), the following described real property:

(Legal description)

If checked, the following optional statement applies:

_____ When effective, this instrument conveys any and all interests in the described real property acquired by the grantor owner(s) before, on, or after the date of this instrument.

(Signature of grantor(s))

(acknowledgment)

Subd. 25. Form of instrument of revocation. An instrument of revocation may be substantially in the following form:

Revocation of Transfer on Death Deed

The undersigned hereby revokes the transfer on death deed recorded on _____, _____, as Document No. _____ (or in Book _____ of _____, Page _____) in the office of the (County Recorder) (Registrar of Titles) of _____ County, Minnesota, affecting real property legally described as follows:

(legal description)

Dated:

Signature

(acknowledgment)

Sec. 6. Minnesota Statutes 2006, section 508.52, is amended to read:

508.52 CONVEYANCE; CANCELLATION OF OLD AND ISSUANCE OF NEW CERTIFICATE.

An owner of registered land who desires to convey the land, or a portion thereof, in fee, shall execute a deed of conveyance, and ~~file~~ record the deed with the registrar. The deed of conveyance shall be ~~filed~~ recorded and endorsed with the number and place of registration of the certificate of title. Before canceling the outstanding certificate of title the registrar shall show by memorial thereon the registration of the deed on the basis of which it is canceled. The encumbrances, claims, or interests adverse to the title of the registered owner shall be stated upon the new certificate, except so far as they may be simultaneously released or discharged. The registrar shall not carry forward as a memorial on the new certificate of title any memorials of a transfer on death deed if the grantors of the transfer on death deed retain no fee interest in the land covered by the new certificate. The

certificate of title shall be marked "Canceled" by the registrar, who shall enter in the register a new certificate of title to the grantee and prepare and deliver to the grantee a copy of the new certificate of title. If a deed in fee is for a portion of the land described in a certificate of title, the memorial of the deed entered by the registrar shall include the legal description contained in the deed and the registrar shall enter a new certificate of title to the grantee for the portion of the land conveyed and, except as otherwise provided in this section, issue a residue certificate of title to the grantor for the portion of the land not conveyed. The registrar shall prepare and deliver to each of the parties a copy of their respective certificates of title. In lieu of canceling the grantor's certificate of title and issuing a residue certificate to the grantor for the portion of the land not conveyed, the registrar may if the grantor's deed does not divide a parcel of unplatted land, and in the absence of a request to the contrary by the registered owner, mark by the land description on the certificate of title "Part of land conveyed, see memorials." The fee for a residue certificate of title shall be paid to the registrar only when the grantor's certificate of title is canceled after the conveyance by the grantor of a portion of the land described in the grantor's certificate of title. When two or more successive conveyances of the same property are filed for registration on the same day the registrar may enter a certificate in favor of the grantee or grantees in the last of the successive conveyances, and the memorial of the previous deed or deeds entered on the prior certificate of title shall have the same force and effect as though the prior certificate of title had been entered in favor of the grantee or grantees in the earlier deed or deeds in the successive conveyances. The fees for the registration of the earlier deed or deeds shall be the same as the fees prescribed for the entry of memorials. The registrar of titles, with the consent of the transferee, may mark "See memorials for new owner(s)" by the names of the registered owners on the certificate of title and also add to the memorial of the transferring conveyance a statement that the memorial shall serve in lieu of a new certificate of title in favor of the grantee or grantees therein noted and may refrain from canceling the certificate of title until the time it is canceled by a subsequent transfer, and the memorial showing such transfer of title shall have the same effect as the entry of a new certificate of title for the land described in the certificate of title; the fee for the registration of a conveyance without cancellation of the certificate of title shall be the same as the fee prescribed for the entry of a memorial.

Sec. 7. Minnesota Statutes 2006, section 508A.52, is amended to read:

508A.52 CONVEYANCE; CANCELLATION OF OLD AND ISSUANCE OF NEW CPT.

An owner of land registered under sections 508A.01 to 508A.85 who desires to convey the land, or a portion of it, in fee, shall execute a deed of conveyance, and ~~file~~ record the deed with the registrar. The deed of conveyance shall be ~~filed~~ recorded and endorsed with the number and place of registration of the CPT. Before canceling the outstanding CPT, the registrar shall show by memorial on it the registration of the deed on the basis of which it is canceled. The encumbrances, claims, or interests adverse to the title of the registered owner shall be stated upon the new CPT, except so far as they may be simultaneously released or discharged. The registrar shall not carry forward as a memorial on the new CPT any memorials of a transfer on death deed if the grantors of the transfer on death deed retain no fee interest in the real property covered by the new CPT. The CPT shall be marked "Canceled" by the registrar, who shall enter in the register a new CPT to the grantee, and prepare and deliver to the grantee a copy of the new CPT. If a deed in fee is for a portion of the land described in a CPT, the memorial of the deed entered by the registrar shall include the legal description contained in the deed and the registrar shall enter a new CPT to the grantee for the portion of the land conveyed and, except as otherwise provided in this section, issue a residue CPT to the grantor for the portion of the land not conveyed. The registrar shall prepare and deliver

to each of the parties a copy of their respective CPTs CPT's. In lieu of canceling the grantor's CPT and issuing a residue CPT to the grantor for the portion of the land not conveyed, the registrar may if the grantor's deed does not divide a parcel of unplatted land, and in the absence of a request to the contrary by the registered owner, mark by the land description on the CPT "Part of land conveyed, see memorials." The fee for a residue CPT shall be paid to the registrar only when the grantor's CPT is canceled after the conveyance by the grantor of a portion of the land described in the grantor's CPT. When two or more successive conveyances of the same property are filed for registration on the same day the registrar may enter a CPT in favor of the grantee or grantees in the last of the successive conveyances, and the memorial of the previous deed or deeds entered on the prior CPT shall have the same force and effect as though the prior CPT had been entered in favor of the grantee or grantees in the earlier deed or deeds in the successive conveyances. The fees for the registration of the earlier deed or deeds shall be the same as the fees prescribed for the entry of memorials. The registrar of titles, with the consent of the transferee, may mark "See memorials for new owner(s)" by the names of the registered owners on the CPT and also add to the memorial of the transferring conveyance a statement that the memorial shall serve in lieu of a new CPT in favor of the grantee or grantees noted in it and may refrain from canceling the CPT until the time it is canceled by a subsequent transfer, and the memorial showing the transfer of title shall have the same effect as the entry of a new CPT for the land described in the CPT. The fee for the registration of a conveyance without cancellation of the CPT shall be the same as the fee prescribed for the entry of a memorial.

Sec. 8. Minnesota Statutes 2006, section 524.2-702, is amended to read:

524.2-702 REQUIREMENT OF SURVIVAL FOR 120 HOURS FOR DEVISEES, BENEFICIARIES OF CERTAIN TRUSTS, AND APPOINTEES OF CERTAIN POWERS OF APPOINTMENT; SIMULTANEOUS DEATH ACT FOR OTHER CASES.

(a) **Requirement of survival for 120 hours.** A beneficiary of a trust in which the grantor has reserved a power to alter, amend, revoke, or terminate the provisions of the trust who fails to survive the grantor by 120 hours, a devisee who fails to survive the testator by 120 hours, a beneficiary named in a transfer on death deed under section 507.071 who fails to survive by 120 hours the grantor owner upon whose death the conveyance to the beneficiary becomes effective, or an appointee of a power of appointment taking effect at the death of the holder of the power who fails to survive the holder of the power by 120 hours is deemed to have predeceased the grantor, grantor owner testator, or holder of the power for purposes of determining title to property passing by the trust instrument, by the testator's will, by the transfer on death deed, or by the exercise of the power of appointment.

(b)(1) **Title to property in other cases.** In cases not governed by section 524.2-104 or paragraph (a), where the title to property or the devolution thereof depends upon priority of death and there is no sufficient evidence that the persons have died otherwise than simultaneously, the property of each person shall be disposed of as if the person had survived, except as provided otherwise in this paragraph.

(2) **Division of property.** Where two or more beneficiaries are designated to take successively by reason of survivorship under another person's disposition of property and there is no sufficient evidence that these beneficiaries have died otherwise than simultaneously the property thus disposed of shall be divided into as many equal portions as there are successive beneficiaries and these portions shall be distributed respectively to those who would have taken in the event that each designated beneficiary had survived.

(3) **Division of property.** Where there is no sufficient evidence that two joint tenants or tenants by the entirety have died otherwise than simultaneously the property so held shall be distributed one-half as if one had survived and one-half as if the other had survived. If there are more than two joint tenants and all of them have so died the property thus distributed shall be in the proportion that one bears to the whole number of joint tenants.

(4) **Division of property.** Where the insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died otherwise than simultaneously the proceeds of the policy shall be distributed as if the insured had survived the beneficiary.

(c) **Not retroactive.** This section does not apply to the distribution of the property of a person who has died before it takes effect. Paragraph (a) applies only to persons who die on or after August 1, 1999.

(d) **Application.** This section does not apply in the case of wills, trusts, deeds, contracts of insurance, or documents exercising powers of appointment wherein provision has been made for distribution of property different from the provisions of this section. Paragraph (a) does not apply to trusts which are part of a qualified or nonqualified retirement plan or individual retirement accounts.

Sec. 9. EFFECTIVE DATE.

This article is effective August 1, 2008, and applies to instruments of conveyance of real property recorded on or after that date, regardless of an instrument's date of execution.

ARTICLE 3

MISCELLANEOUS REAL PROPERTY

Section 1. Minnesota Statutes 2007 Supplement, section 507.24, subdivision 2, is amended to read:

Subd. 2. **Original signatures required.** (a) Unless otherwise provided by law, an instrument affecting real estate that is to be recorded as provided in this section or other applicable law must contain the original signatures of the parties who execute it and of the notary public or other officer taking an acknowledgment. However, a financing statement that is recorded as a filing pursuant to section 336.9-502(b) need not contain: (1) the signatures of the debtor or the secured party; or (2) an acknowledgment. An instrument acknowledged in a representative capacity as defined in section 358.41 on behalf of a corporation, partnership, limited liability company, or trust that is otherwise entitled to be recorded shall be recorded if the acknowledgment made in a representative capacity is substantially in the form prescribed in chapter 358, without further inquiry into the authority of the person making the acknowledgment.

(b)(1) Any electronic instruments, including signatures and seals, affecting real estate may only be recorded as part of a pilot project for the electronic filing of real estate documents implemented by the task force created in Laws 2000, chapter 391, or by the Electronic Real Estate Recording Task Force created under section 507.094. The Electronic Real Estate Recording Task Force created under section 507.094 may amend standards set by the task force created in Laws 2000, chapter 391, and may set new or additional standards and establish pilot projects to the full extent permitted in section 507.094, subdivision 2, paragraph (b). Documents recorded in conformity with those standards and in those pilot projects are deemed to meet the requirements of this section.

(2)(i) A county that participated in the pilot project for the electronic filing of real estate documents under the task force created in Laws 2000, chapter 391, may continue to record or file documents electronically, if:

- (A) the county complies with standards adopted by the task force; and
- (B) the county uses software that was validated by the task force.

(ii) A county that did not participate in the pilot project may record or file a real estate document electronically, if:

(A) the document to be recorded or filed is of a type included in the pilot project for the electronic filing of real estate documents under the task force created in Laws 2000, chapter 391;

- (B) the county complies with the standards adopted by the task force;
- (C) the county uses software that was validated by the task force; and

(D) the task force created under section 507.094, votes to accept a written certification of compliance with paragraph (b), clause (2), of this section by the county board and county recorder of the county to implement electronic filing under this section.

(c) Notices filed pursuant to section 168A.141, subdivisions 1 and 3, need not contain an acknowledgment.

Sec. 2. Minnesota Statutes 2006, section 508.02, is amended to read:

508.02 REGISTERED LAND; SAME INCIDENTS AS UNREGISTERED; NO ADVERSE POSSESSION.

Registered land shall be subject to the same burdens and incidents which attach by law to unregistered land. This chapter shall not operate to relieve registered land or the owners thereof from any rights, duties, or obligations incident to or growing out of the marriage relation, or from liability to attachment on mesne process, or levy on execution, or from liability to any lien or charge of any description, created or established by law upon the land or the buildings situated thereon, or the interest of the owner in such land or buildings. It shall not operate to change the laws of descent or the rights of partition between cotenants, or the right to take the land by eminent domain. It shall not operate to relieve such land from liability to be taken or recovered by any assignee or receiver under any provision of law relative thereto, and shall not operate to change or affect any other rights, burdens, liabilities, or obligations created by law and applicable to unregistered land except as otherwise expressly provided herein. No title to registered land in derogation of that of the registered owner shall be acquired by prescription or by adverse possession, but the common law doctrine of practical location of boundaries applies to registered land whenever registered. Section 508.671 shall apply in a proceedings subsequent to establish a boundary by practical location for registered land.

Sec. 3. Minnesota Statutes 2006, section 508.48, is amended to read:

508.48 INSTRUMENTS AFFECTING TITLE FILED WITH REGISTRAR; NOTICE.

(a) Every conveyance, lien, attachment, order, decree, or judgment, or other instrument or proceeding, which would affect the title to unregistered land under existing laws, if recorded, or

filed with the county recorder, shall, in like manner, affect the title to registered land if filed and registered with the registrar in the county where the real estate is situated, and shall be notice to all persons from the time of such registering or filing of the interests therein created. Neither the reference in a registered instrument to an unregistered instrument or interest nor the joinder in a registered instrument by a party or parties with no registered interest shall constitute notice, either actual or constructive, of an unregistered interest.

(b) An instrument acknowledged in a representative capacity as defined in section 358.41 on behalf of a corporation, partnership, limited liability company, or trust that is otherwise entitled to be recorded shall be recorded if the acknowledgment made in a representative capacity is substantially in the form prescribed in chapter 358, without further inquiry into the authority of the person making the acknowledgment.

Sec. 4. Minnesota Statutes 2006, section 508.671, subdivision 1, is amended to read:

Subdivision 1. **Petition.** An owner of registered land having one or more common boundaries with registered or unregistered land or an owner of unregistered land having one or more common boundaries with registered land may apply by a duly verified petition to the court to have all or some of the common boundary lines judicially determined. The petition shall contain the full names and post office addresses of all owners of adjoining lands which are in any manner affected by the boundary determination. At the time of the filing of the petition with the court administrator, a copy of it, duly certified by the court administrator, shall be filed for record with the county recorder. If any of the adjoining lands are registered, the certified copy of the petition also shall be filed with the registrar of titles and entered as a memorial on the certificate of title for those lands. When recorded or filed, the certified copy of the petition shall be notice forever to purchasers and encumbrancers of the pendency of the proceeding and of all matters referred to in the court files and records pertaining to the proceeding. The owner shall have the premises surveyed by a licensed land surveyor and shall file in the proceedings a plat of the survey showing the correct location of the boundary line or lines to be determined. There also shall be filed with the court administrator a memorandum abstract, satisfactory to the examiner, showing the record owners and encumbrancers of the adjoining lands which are in any manner affected by the boundary line determination. The petition shall be referred to the examiner of titles for examination and report in the manner provided for the reference of initial applications for registration. Notice of the proceeding shall be given to all interested persons by the service of a summons which shall be issued in the form and served in the manner as in initial applications.

Sec. 5. Minnesota Statutes 2006, section 508A.02, subdivision 1, is amended to read:

Subdivision 1. **Effect of registration.** Land registered under sections 508A.01 to 508A.85 shall be registered subject to the rights of persons in possession, if any, and rights which would be disclosed by a survey, except that no title in derogation of that of the registered owner shall be acquired by prescription or adverse possession after the date of the first CPT; otherwise, land registered under sections 508A.01 to 508A.85 shall be subject to the same rights, protections, burdens, and incidents which attach by law to lands as provided in section 508.02. The common law doctrine of practical location of boundaries applies to property registered under sections 508A.01 to 508A.85 whenever registered. Section 508.671 shall apply in a proceedings subsequent to establish a boundary by practical location for property registered under sections 508A.01 to 508A.85.

Sec. 6. Minnesota Statutes 2006, section 508A.48, is amended to read:

508A.48 FILED INSTRUMENT AFFECTING TITLE IS NOTICE.

(a) Every conveyance, lien, attachment, order, decree, or judgment, or other instrument or proceeding, which would affect the title to unregistered land under existing laws, if recorded, or filed with the county recorder, shall, in like manner, affect the title to land registered under sections 508A.01 to 508A.85 if filed and registered with the registrar in the county where the real estate is situated, and shall be notice to all persons from the time of the registering or filing of the interests therein created. Neither the reference in a registered instrument to an unregistered instrument or interest nor the joinder in a registered instrument by a party or parties with no registered interest shall constitute notice, either actual or constructive, of an unregistered interest.

(b) An instrument acknowledged in a representative capacity as defined in section 358.41 on behalf of a corporation, partnership, limited liability company, or trust that is otherwise entitled to be recorded shall be recorded if the acknowledgment made in a representative capacity is substantially in the form prescribed in chapter 358, without further inquiry into the authority of the person making the acknowledgment.

Sec. 7. Minnesota Statutes 2006, section 557.02, is amended to read:

557.02 NOTICE OF LIS PENDENS.

In all actions in which the title to, or any interest in or lien upon, real property is involved or affected, or is brought in question by either party, any party thereto, at the time of filing the complaint, or at any time thereafter during the pendency of such action, may file for record with the county recorder of each county in which any part of the premises lies a notice of the pendency of the action, containing the names of the parties, the object of the action, and a description of the real property in such county involved, affected or brought in question thereby. From the time of the filing of such notice, and from such time only, the pendency of the action shall be notice to purchasers and encumbrancers of the rights and equities of the party filing the same to the premises. When any pleading is amended in such action, so as to alter the description of, or to extend the claim against, the premises affected, a new notice may be filed, with like effect. Such notice shall be recorded ~~in the same book and~~ in the same manner in which mortgages are recorded, and may be discharged ~~by an entry to that effect in the margin of the record by the party filing the same, or the party's attorney, in the presence of the recorder, or by writing executed and acknowledged in the manner of conveyance, whereupon the recorder shall enter a minute thereof on the margin of such record.~~ The filing of such lis pendens at the time of filing the complaint and before the commencement of the action shall have no force, effect, or validity against the premises described in the lis pendens, unless the filing of the complaint is followed by the service of the summons in the action within 90 days after the filing of the complaint therein. Any party claiming any title or interest in or to the real property involved or affected may on such notice as the court shall in each case prescribe, make application to the district court in the county in which the action is pending or in which the real property involved or affected is situated, for an order discharging the lis pendens of record, when any such action has not been brought on for trial within two years after the filing of the lis pendens and in case the court orders the lis pendens discharged of record upon the filing of a certified copy of the order of the court in the office of the county recorder, where the real property is situated, the lis pendens shall be void and of no force nor effect.

Sec. 8. EFFECTIVE DATE.

(a) Sections 1, 3, and 6 are effective the day following final enactment, and apply to documents acknowledged before, on, or after that date.

(b) Sections 2, 4, and 5 are effective August 1, 2008, and apply to land registered under Minnesota Statutes, chapter 508 or 508A, whenever registered.

ARTICLE 4

UNIFORM PROBATE CODE

Section 1. Minnesota Statutes 2006, section 524.2-301, is amended to read:

524.2-301 ENTITLEMENT OF SPOUSE; PREMARITAL WILL.

(a) A testator's surviving spouse, who If a testator married the testator after the testator's making a will was executed, is entitled to and the spouse survives the testator, the surviving spouse shall receive, as an intestate a share, no less than the value of the share of the estate of the testator equal in value to that which the surviving spouse would have received if the testator had died intestate as to that portion of the testator's estate, if any, that neither is devised to a child of the testator who was born before the testator married the surviving spouse and who is not a child of the surviving spouse nor is devised to a descendant of such a child or passes under section 524.2-603 or 524.2-604 to such a child or to a descendant of such a child, unless:

(1) it appears from the will or other evidence that the will was made in contemplation of the testator's marriage to the surviving spouse provision has been made for, or waived by, the spouse by prenuptial or postnuptial agreement;

(2) the will expresses the discloses an intention that it is to be effective notwithstanding any subsequent marriage not to make provision for the spouse; or

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

(b) In satisfying the share provided by this section, devises made by the will to the testator's surviving spouse, if any, are applied first, and other devises, other than a devise to a child of the testator who was born before the testator married the surviving spouse and who is not a child of the surviving spouse or a devise or substitute gift under section 524.2-603 or 524.2-604 to a descendant of such a child, abate first as otherwise provided in section 524.3-902.

Sec. 2. Minnesota Statutes 2006, section 524.2-402, is amended to read:

524.2-402 DESCENT OF HOMESTEAD.

(a) If there is a surviving spouse, the homestead, including a manufactured home which is the family residence, descends free from any testamentary or other disposition of it to which the spouse has not consented in writing or as provided by law, as follows:

(1) if there is no surviving descendant of decedent, to the spouse; or

(2) if there are surviving descendants of decedent, then to the spouse for the term of the spouse's natural life and the remainder in equal shares to the decedent's descendants by representation.

(b) If there is no surviving spouse and the homestead has not been disposed of by will it descends as other real estate.

(c) If the homestead passes by descent or will to the spouse or decedent's descendants or to a trustee of a trust of which the spouse or the decedent's descendants are the sole current beneficiaries, it is exempt from all debts which were not valid charges on it at the time of decedent's death except that the homestead is subject to a claim filed pursuant to section 246.53 for state hospital care or 256B.15 for medical assistance benefits. If the homestead passes to a person other than a spouse or decedent's descendants or to a trustee of a trust of which the spouse or the decedent's descendants are the sole current beneficiaries, it is subject to the payment of expenses of administration, funeral expenses, expenses of last illness, taxes, and debts. The claimant may seek to enforce a lien or other charge against a homestead so exempted by an appropriate action in the district court.

(d) For purposes of this section, except as provided in section 524.2-301, the surviving spouse is deemed to consent to any testamentary or other disposition of the homestead to which the spouse has not previously consented in writing unless the spouse files in the manner provided in section 524.2-211, paragraph (f), a petition that asserts the homestead rights provided to the spouse by this section.

Sec. 3. Minnesota Statutes 2006, section 524.3-801, is amended to read:

524.3-801 NOTICE TO CREDITORS.

(a) Unless notice has already been given under this section, upon appointment of a general personal representative in informal proceedings or upon the filing of a petition for formal appointment of a general personal representative, notice thereof, in the form prescribed by court rule, shall be given under the direction of the court administrator by publication once a week for two successive weeks in a legal newspaper in the county wherein the proceedings are pending giving the name and address of the general personal representative and notifying creditors of the estate to present their claims within four months after the date of the court administrator's notice which is subsequently published or be forever barred, unless they are entitled to further service of notice under paragraph (b) or (c).

~~(b)(1) Within three months after: (i) the date of the first publication of the notice; or (ii) June 16, 1989, whichever is later, the personal representative may determine, in the personal representative's discretion, that it is or is not advisable to conduct a reasonably diligent search for creditors of the decedent who are either not known or not identified. If the personal representative determines that a reasonably diligent search is advisable, the personal representative shall conduct the search.~~

~~(2) If the notice is first published after June 16, 1989, The personal representative shall, within three months after the date of the first publication of the notice, serve a copy of the notice upon each then known and identified creditor in the manner provided in paragraph (c). Notice If the decedent or a predeceased spouse of the decedent received assistance for which a claim could be filed under section 246.53, 256B.15, 256D.16, or 261.04, notice to the commissioner of human services must be given under paragraph (d) does not satisfy the notice requirements instead of under this paragraph and or paragraph (c). If notice was first published under the applicable provisions of law under the direction of the court administrator before June 16, 1989, and if a personal representative is empowered to act at any time after June 16, 1989, the personal representative shall, within three months after June 16, 1989, serve upon the then known and identified creditors in the manner provided in paragraph (c) a copy of the notice as published, together with a supplementary notice~~

~~requiring each of the creditors to present any claim within one month after the date of the service of the notice or be forever barred.~~

~~(3) Under this section,~~ A creditor is "known" if: (i) the personal representative knows that the creditor has asserted a claim that arose during the decedent's life against either the decedent or the decedent's estate; ~~or~~ (ii) the creditor has asserted a claim that arose during the decedent's life and the fact is clearly disclosed in accessible financial records known and available to the personal representative; or (iii) the claim of the creditor would be revealed by a reasonably diligent search for creditors of the decedent in accessible financial records known and available to the personal representative. Under this section, a creditor is "identified" if the personal representative's knowledge of the name and address of the creditor will permit service of notice to be made under paragraph (c).

(c) Unless the claim has already been presented to the personal representative or paid, the personal representative shall serve a copy of any notice and any supplementary the notice required by paragraph (b), ~~clause (1) or (2),~~ upon each creditor of the decedent who is then known to the personal representative and identified, ~~except a creditor whose claim has either been presented to the personal representative or paid,~~ either by delivery of a copy of the required notice to the creditor, or by mailing a copy of the notice to the creditor by certified, registered, or ordinary first class mail addressed to the creditor at the creditor's office or place of residence.

(d)(1) Effective for decedents dying on or after July 1, 1997, if the decedent or a predeceased spouse of the decedent received assistance for which a claim could be filed under section 246.53, 256B.15, 256D.16, or 261.04, the personal representative or the attorney for the personal representative shall serve the commissioner of human services with notice in the manner prescribed in paragraph (c) as soon as practicable after the appointment of the personal representative. The notice must state the decedent's full name, date of birth, and Social Security number and, to the extent then known after making a reasonably diligent inquiry, the full name, date of birth, and Social Security number for each of the decedent's predeceased spouses. The notice may also contain a statement that, after making a reasonably diligent inquiry, the personal representative has determined that the decedent did not have any predeceased spouses or that the personal representative has been unable to determine one or more of the previous items of information for a predeceased spouse of the decedent. A copy of the notice to creditors must be attached to and be a part of the notice to the commissioner.

(2) Notwithstanding a will or other instrument or law to the contrary, except as allowed in this paragraph, no property subject to administration by the estate may be distributed by the estate or the personal representative until 70 days after the date the notice is served on the commissioner as provided in paragraph (c), unless the local agency consents as provided for in clause (6). This restriction on distribution does not apply to the personal representative's sale of real or personal property, but does apply to the net proceeds the estate receives from these sales. The personal representative, or any person with personal knowledge of the facts, may provide an affidavit containing the description of any real or personal property affected by this paragraph and stating facts showing compliance with this paragraph. If the affidavit describes real property, it may be filed or recorded in the office of the county recorder or registrar of titles for the county where the real property is located. This paragraph does not apply to proceedings under sections 524.3-1203 and 525.31, or when a duly authorized agent of a county is acting as the personal representative of the estate.

(3) At any time before an order or decree is entered under section 524.3-1001 or 524.3-1002, or a closing statement is filed under section 524.3-1003, the personal representative or the attorney for the personal representative may serve an amended notice on the commissioner to add variations or other names of the decedent or a predeceased spouse named in the notice, the name of a predeceased spouse omitted from the notice, to add or correct the date of birth or Social Security number of a decedent or predeceased spouse named in the notice, or to correct any other deficiency in a prior notice. The amended notice must state the decedent's name, date of birth, and Social Security number, the case name, case number, and district court in which the estate is pending, and the date the notice being amended was served on the commissioner. If the amendment adds the name of a predeceased spouse omitted from the notice, it must also state that spouse's full name, date of birth, and Social Security number. The amended notice must be served on the commissioner in the same manner as the original notice. Upon service, the amended notice relates back to and is effective from the date the notice it amends was served, and the time for filing claims arising under section 246.53, 256B.15, 256D.16 or 261.04 is extended by 60 days from the date of service of the amended notice. Claims filed during the 60-day period are undischarged and unbarred claims, may be prosecuted by the entities entitled to file those claims in accordance with section 524.3-1004, and the limitations in section 524.3-1006 do not apply. The personal representative or any person with personal knowledge of the facts may provide and file or record an affidavit in the same manner as provided for in clause (1).

(4) Within one year after the date an order or decree is entered under section 524.3-1001 or 524.3-1002 or a closing statement is filed under section 524.3-1003, any person who has an interest in property that was subject to administration by the estate may serve an amended notice on the commissioner to add variations or other names of the decedent or a predeceased spouse named in the notice, the name of a predeceased spouse omitted from the notice, to add or correct the date of birth or Social Security number of a decedent or predeceased spouse named in the notice, or to correct any other deficiency in a prior notice. The amended notice must be served on the commissioner in the same manner as the original notice and must contain the information required for amendments under clause (3). If the amendment adds the name of a predeceased spouse omitted from the notice, it must also state that spouse's full name, date of birth, and Social Security number. Upon service, the amended notice relates back to and is effective from the date the notice it amends was served. If the amended notice adds the name of an omitted predeceased spouse or adds or corrects the Social Security number or date of birth of the decedent or a predeceased spouse already named in the notice, then, notwithstanding any other laws to the contrary, claims against the decedent's estate on account of those persons resulting from the amendment and arising under section 246.53, 256B.15, 256D.16, or 261.04 are undischarged and unbarred claims, may be prosecuted by the entities entitled to file those claims in accordance with section 524.3-1004, and the limitations in section 524.3-1006 do not apply. The person filing the amendment or any other person with personal knowledge of the facts may provide and file or record an affidavit describing affected real or personal property in the same manner as clause (1).

(5) After one year from the date an order or decree is entered under section 524.3-1001 or 524.3-1002, or a closing statement is filed under section 524.3-1003, no error, omission, or defect of any kind in the notice to the commissioner required under this paragraph or in the process of service of the notice on the commissioner, or the failure to serve the commissioner with notice as required by this paragraph, makes any distribution of property by a personal representative void or voidable. The distributee's title to the distributed property shall be free of any claims based upon a failure to comply with this paragraph.

(6) The local agency may consent to a personal representative's request to distribute property subject to administration by the estate to distributees during the 70-day period after service of notice on the commissioner. The local agency may grant or deny the request in whole or in part and may attach conditions to its consent as it deems appropriate. When the local agency consents to a distribution, it shall give the estate a written certificate evidencing its consent to the early distribution of assets at no cost. The certificate must include the name, case number, and district court in which the estate is pending, the name of the local agency, describe the specific real or personal property to which the consent applies, state that the local agency consents to the distribution of the specific property described in the consent during the 70-day period following service of the notice on the commissioner, state that the consent is unconditional or list all of the terms and conditions of the consent, be dated, and may include other contents as may be appropriate. The certificate must be signed by the director of the local agency or the director's designees and is effective as of the date it is dated unless it provides otherwise. The signature of the director or the director's designee does not require any acknowledgment. The certificate shall be prima facie evidence of the facts it states, may be attached to or combined with a deed or any other instrument of conveyance and, when so attached or combined, shall constitute a single instrument. If the certificate describes real property, it shall be accepted for recording or filing by the county recorder or registrar of titles in the county in which the property is located. If the certificate describes real property and is not attached to or combined with a deed or other instrument of conveyance, it shall be accepted for recording or filing by the county recorder or registrar of titles in the county in which the property is located. The certificate constitutes a waiver of the 70-day period provided for in clause (2) with respect to the property it describes and is prima facie evidence of service of notice on the commissioner. The certificate is not a waiver or relinquishment of any claims arising under section 246.53, 256B.15, 256D.16, or 261.04, and does not otherwise constitute a waiver of any of the personal representative's duties under this paragraph. Distributees who receive property pursuant to a consent to an early distribution shall remain liable to creditors of the estate as provided for by law.

(7) All affidavits provided for under this paragraph:

(i) shall be provided by persons who have personal knowledge of the facts stated in the affidavit;

(ii) may be filed or recorded in the office of the county recorder or registrar of titles in the county in which the real property they describe is located for the purpose of establishing compliance with the requirements of this paragraph; and

(iii) are prima facie evidence of the facts stated in the affidavit.

(8) This paragraph applies to the estates of decedents dying on or after July 1, 1997. Clause (5) also applies with respect to all notices served on the commissioner of human services before July 1, 1997, under Laws 1996, chapter 451, article 2, section 55. All notices served on the commissioner before July 1, 1997, pursuant to Laws 1996, chapter 451, article 2, section 55, shall be deemed to be legally sufficient for the purposes for which they were intended, notwithstanding any errors, omissions or other defects.

Sec. 4. Minnesota Statutes 2006, section 524.3-803, is amended to read:

524.3-803 LIMITATIONS ON PRESENTATION OF CLAIMS.

(a) All claims as defined in section 524.1-201(6), against a decedent's estate which arose before the death of the decedent, including claims of the state and any subdivision thereof, whether due

or to become due, absolute or contingent, liquidated or unliquidated, if not barred earlier by other statute of limitations, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) in the case of a creditor who is only entitled, under the United States Constitution and under the Minnesota Constitution, to notice by publication under section 524.3-801, within four months after the date of the court administrator's notice to creditors which is subsequently published pursuant to section 524.3-801;

(2) in the case of a creditor who was served with notice under section 524.3-801(c), within the later to expire of four months after the date of the first publication of notice to creditors or one month after the service;

~~(3) within the later to expire of one year after the decedent's death, or one year after June 16, 1989, whether or not notice to creditors has been published or served under section 524.3-801, provided, however, that in the case of a decedent who died before June 16, 1989, no claim which was then barred by any provision of law may be deemed to have been revived by the amendment of this section.~~

(b) All claims against a decedent's estate which arise at or after the death of the decedent, including claims of the state and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, are barred against the estate, the personal representative, and the heirs and devisees of the decedent, unless presented as follows:

(1) a claim based on a contract with the personal representative, within four months after performance by the personal representative is due;

(2) any other claim, within four months after it arises.

(c) Nothing in this section affects or prevents:

(1) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate;

(2) any proceeding to establish liability of the decedent or the personal representative for which there is protection by liability insurance, to the limits of the insurance protection only;

(3) the presentment and payment at any time within one year after the decedent's death of any claim arising before the death of the decedent that is referred to in section 524.3-715, clause (18), although the same may be otherwise barred under this section; or

(4) the presentment and payment at any time before a petition is filed in compliance with section 524.3-1001 or 524.3-1002 or a closing statement is filed under section 524.3-1003, of:

(i) any claim arising after the death of the decedent that is referred to in section 524.3-715, clause (18), although the same may be otherwise barred hereunder;

(ii) any other claim, including claims subject to clause (3), which would otherwise be barred hereunder, upon allowance by the court upon petition of the personal representative or the claimant for cause shown on notice and hearing as the court may direct.

ARTICLE 5

MORTGAGE FORECLOSURE

Section 1. Minnesota Statutes 2006, section 507.092, subdivision 1, is amended to read:

Subdivision 1. **To get tax statements.** (a) No contract for deed or deed conveying fee title to real estate shall be recorded by the county recorder or registered by the registrar of titles until the name and address of the grantee, to whom future tax statements should be sent, is printed, typewritten, stamped or written on it in a legible manner. An instrument complies with this subdivision if it contains a statement in the following form: "Tax statements for the real property described in this instrument should be sent to:

..... (legal name of grantee) (residential or business address)."

(b) The name provided under paragraph (a) must be the legal name of the grantee and the address must be the residential or business address of the grantee.

EFFECTIVE DATE. This section applies to a contract for deed or deed conveying fee title to real estate acknowledged by any party on or after August 1, 2008.

Sec. 2. Minnesota Statutes 2007 Supplement, section 510.05, is amended to read:

510.05 LIMITATIONS.

The amount of the homestead exemption shall not be reduced by and shall not extend to any mortgage lawfully obtained thereon, to any valid lien for taxes or assessments, to a claim filed pursuant to section 246.53 or 256B.15, to any charge arising under the laws relating to laborers or material suppliers' liens or to any charge obtained under section 481.13 pursuant to a valid waiver of the homestead exemption.

Sec. 3. Minnesota Statutes 2007 Supplement, section 550.19, is amended to read:

550.19 SERVICE ON JUDGMENT DEBTOR.

If the sale is of personal property, at or before the time of posting notice of sale, the officer shall serve a copy of the execution and inventory, and of the notice, upon the judgment debtor, if the debtor is a resident of the county, in the manner required by law for the service of a summons in a civil action. If the sale is of real property, a judgment creditor must, at least four weeks before the appointed time of sale, serve a copy of the notice of sale in like manner as a summons in a civil action in the district court upon the judgment debtor if the judgment debtor is a resident of the county and upon any person in possession of the homestead other than the judgment debtor. In addition, the notice of sale must also be served upon all persons who have recorded a request for notice in accordance with section 580.032.

Sec. 4. Minnesota Statutes 2007 Supplement, section 550.22, is amended to read:

550.22 CERTIFICATE OF SALE OF REALTY.

When a sale of real property is made upon execution, or pursuant to a judgment or order of a court, unless otherwise specified therein, the officer shall execute and deliver to the purchaser a certificate containing:

- (1) a description of the execution, judgment, or order;

- (2) a description of the property;
- (3) the date of the sale and the name of the purchaser;
- (4) the price paid for each parcel separately;
- (5) if subject to redemption, the time allowed by law therefor;
- (6) the interest rate in effect on the date of the sheriff's sale; and
- ~~(6)~~ (7) the amount of the debtor's homestead exemption, if any, as determined under section 550.175.

Such certificate shall be executed, acknowledged, and recorded in the manner provided by law for a conveyance of real property, shall be prima facie evidence of the facts stated, and, upon expiration of the time for redemption, shall operate as a conveyance to the purchaser of all the right, title, and interest of the person whose property is sold in and to the same, at the date of the lien upon which the same was sold. Any person desiring to perpetuate evidence that any real property sold under this section was not homestead real property may procure an affidavit by the person enforcing the judgment, or that person's attorney, or someone having knowledge of the facts, setting forth that the real property was not homestead real property. The affidavit shall be recorded by the county recorder or registrar of titles, and the affidavit and certified copies of the affidavit shall be prima facie evidence of the facts stated in the affidavit.

EFFECTIVE DATE. This section is effective August 1, 2008, and applies to sheriff's sales conducted on or after that date.

Sec. 5. Minnesota Statutes 2007 Supplement, section 550.24, is amended to read:

550.24 REDEMPTION OF REALTY.

(a) Upon the sale of real property, if the estate sold is less than a leasehold of two years' unexpired term, the sale is absolute. In all other cases the property sold, or any portion thereof which has been sold separately, is subject to redemption as provided in this section.

(b) The judgment debtor, the debtor's heirs, successors, legal representatives, or assigns may redeem within one year after the day of sale, or order confirming sale if the property is a homestead, by paying, to the purchaser or the officer making the sale, the amount for which the property was sold with interest at the rate stated in the certificate of sale, and if no rate is provided in the certificate of sale, the lesser of the judgment rate in effect on the date of the sale or six percent per annum, on the amount of the sale in excess of the homestead exemption, ~~at the judgment rate~~ and if the purchaser is a creditor having a prior lien, the amount thereof, with interest, on the amount of the sale in excess of the homestead exemption, at the judgment rate together with any costs as provided in sections 582.03 and 582.031.

(c) If there is no redemption during the debtor's redemption period, creditors having a lien, legal or equitable, on the property or some part thereof, subsequent to that on which it was sold may redeem in the manner provided for redemption by creditors of the mortgagor in section 580.24, in the order of their respective liens.

(d) If the property is abandoned during the judgment debtor's redemption period, the person holding the sheriff's certificate may request that the court reduce the judgment debtor's redemption

period to five weeks using the procedures provided for a foreclosure by action in section 582.032, subdivision 5.

EFFECTIVE DATE. This section is effective August 1, 2008, and applies to redemptions made from sheriff's sales conducted on or after that date.

Sec. 6. Minnesota Statutes 2006, section 580.02, is amended to read:

580.02 REQUISITES FOR FORECLOSURE.

To entitle any party to make such foreclosure, it is requisite:

(1) that some default in a condition of such mortgage has occurred, by which the power to sell has become operative;

(2) that no action or proceeding has been instituted at law to recover the debt then remaining secured by such mortgage, or any part thereof, or, if the action or proceeding has been instituted, that the same has been discontinued, or that an execution upon the judgment rendered therein has been returned unsatisfied, in whole or in part;

(3) that the mortgage has been recorded and, if it has been assigned, that all assignments thereof have been recorded; provided, that, if the mortgage is upon registered land, it shall be sufficient if the mortgage and all assignments thereof have been duly registered; and

(4) before the notice of pendency as required under section 580.032 is recorded, the party has complied with section 580.021.

Sec. 7. **[580.021] FORECLOSURE PREVENTION COUNSELING.**

Subdivision 1. **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 of the owner.

Subd. 2. **Requirement to provide notice of opportunity for counseling.** When the written notice required under section 47.20, subdivision 8, is provided and before the notice of pendency under section 580.032, subdivision 3, is filed, a party foreclosing on a mortgage must provide to the mortgagor information contained in a form prescribed in section 580.022, subdivision 1, that:

(1) foreclosure prevention counseling services provided by an authorized foreclosure prevention counseling agency are available; and

(2) notice that the party will transmit the homeowner's name, address, and telephone number to an approved foreclosure prevention agency.

Nothing in this subdivision prohibits the notices required by this subdivision from being provided concurrently with the written notice required under section 47.20, subdivision 8.

For the purposes of this section, an "authorized foreclosure prevention counseling agency" is a nonprofit agency approved by the Minnesota Housing Finance Agency or the United States Department of Housing and Urban Development to provide foreclosure prevention counseling services.

Subd. 3. **Notification to authorized counseling agency.** The party entitled to foreclose shall,

within one week of sending the notice prescribed in section 580.022, provide to the appropriate authorized foreclosure prevention agency the mortgagor's name, address, and most recent known telephone number.

Subd. 4. **Notice of provision of counseling; request for contact information.** (a) An authorized foreclosure prevention agency that contacts or is contacted by a mortgagor or the mortgagor's authorized representative and agrees to provide foreclosure prevention assistance services to the mortgagor or representative must provide the form prescribed in section 580.022 to the mortgagee. The form serves as notice to the mortgagee that the mortgagor is receiving foreclosure prevention counseling assistance.

(b) The mortgagee must return the form to the authorized foreclosure prevention agency within 15 days of receipt of the form with the name and telephone number of the mortgagee's agent. The agent must be a person authorized by the mortgagee to:

(1) discuss with the authorized foreclosure prevention agency or the mortgagor the terms of the mortgage; and

(2) negotiate any resolution to the mortgagor's default.

(c) Nothing in this subdivision requires a mortgagee to reach a resolution relating to the mortgagor's default.

EFFECTIVE DATE. This section is effective August 1, 2008, and applies to a foreclosure in which the notice under section 47.20, subdivision 8, is sent on or after that date.

Sec. 8. **[580.022] FORMS.**

Subdivision 1. **Counseling form.** The notice required under section 580.021, subdivision 2, clause (2), must be printed on colored paper that is other than the color of any other document provided with it and must appear substantially as follows:

"PREFORECLOSURE NOTICE

Foreclosure Prevention Counseling

Why You Are Getting This Notice

We do not want you to lose your home and your equity. Government-approved nonprofit agencies are available to, if possible, help you prevent foreclosure.

We have given your contact information to an authorized foreclosure prevention counseling agency to contact you to help you prevent foreclosure.

Who Are These Foreclosure Prevention Counseling Agencies

They are nonprofit agencies who are experts in housing and foreclosure prevention counseling and assistance. They are experienced in dealing with lenders and homeowners who are behind on mortgage payments and can help you understand your options and work with you to address your delinquency. They are approved by either the Minnesota Housing Finance Agency or the United States Department of Housing and Urban Development. They are not connected with us in any way.

Which Agency Will Contact You

[insert name, address, and telephone number of agency]

You can also contact them directly."

Subd. 2. **Notice of Counseling and Request for Contact Information form.** The notice required in section 580.021, subdivision 4, must be substantially in the following form:

"PREFORECLOSURE NOTICE

NOTICE OF PROVISION OF FORECLOSURE PREVENTION COUNSELING AND REQUEST FOR MORTGAGEE CONTACT INFORMATION

[Insert agency name] has been contacted by your customer regarding foreclosure prevention counseling in response to the current foreclosure proceedings involving the customer's real property. Please provide the following contact information pursuant to Minnesota Statutes, section 580.021, subdivision 4, by completing and returning this form via fax [insert fax number] or via e-mail at [insert e-mail address].

To be completed by Counseling Agency

Consumer Name: _____

CONSUMER CONTACT INFORMATION:

Address: _____

City, State, Zip Code: _____

Daytime Phone: _____

Nighttime Phone: _____

PROPERTY AT RISK FOR FORECLOSURE (if differs from above):

Address: _____

City, State, Zip Code: _____

COUNSELING AGENCY CONTACT:

Name: _____

Agency: _____

Phone: _____

Fax: _____

E-mail: _____

To be completed by Lender

Contact Name: _____

Address: _____

City, State, Zip Code: _____

Phone: _____

Fax: _____

E-mail: _____ "

Sec. 9. Minnesota Statutes 2006, section 580.03, is amended to read:

580.03 NOTICE OF SALE; SERVICE ON OCCUPANT.

Six weeks' published notice shall be given that such mortgage will be foreclosed by sale of the mortgaged premises or some part thereof, and at least four weeks before the appointed time of sale a copy of such notice shall be served in like manner as a summons in a civil action in the district court upon the person in possession of the mortgaged premises, if the same are actually occupied. If there be a building on such premises used by a church or religious corporation, for its usual meetings, service upon any officer or trustee of such corporation shall be a sufficient service upon it. The notice required by ~~section~~ sections 580.041 and 580.042 must be served simultaneously with the notice of foreclosure required by this section.

EFFECTIVE DATE. This section is effective August 1, 2008, and applies to notices of sale first published on or after that date.

Sec. 10. Minnesota Statutes 2006, section 580.041, subdivision 2, is amended to read:

Subd. 2. **Content of notice.** The notice required by this section must appear substantially as follows:

"Help For Homeowners in Foreclosure

~~Minnesota law requires that we send you this notice about the foreclosure process. Please read it carefully.~~

The attorney preparing this foreclosure is: _____

(Attorney name, address, phone)

It is being prepared for:

(Lender name, loss mitigation phone number)

AS OF [insert date], this lender says that you owe \$[insert dollar amount] to bring your mortgage up to date. You must pay this amount to keep your house from going through a sheriff's sale. The sheriff's sale is scheduled for [insert date] at [insert time] at [insert place].

~~Mortgage foreclosure is a complex process. Some People may approach contact you about "saving" with advice and offers to help "save" your home. You should be careful about any such promises.~~

~~The state encourages you to become informed about your options in foreclosure before entering into any agreements with anyone in connection with the foreclosure of your home. There are government agencies and nonprofit organizations that you may contact for helpful information about the foreclosure process. For the name and telephone number of an organization near you please call the Minnesota Housing Finance Agency (MHFA) at~~

~~(insert telephone number). The state does not guarantee the advice of these agencies.~~

~~Do not delay dealing with the foreclosure because your options may become more limited as time passes."~~

Remember: It is important that you learn as much as you can about foreclosure and your situation. Find out about all your options before you make any agreements with anyone about the foreclosure of your home.

Getting Help

As soon as possible, you should contact your lender at the above number to talk about things you might be able to do to prevent foreclosure. You should also consider contacting the foreclosure prevention counselor in your area. A foreclosure prevention counselor can answer your questions, offer free advice, and help you create a plan which makes sense for your situation.

Contact the Minnesota Home Ownership Center at 651-659-9336 or 866-462-6466 or www.hocmn.org to get the phone number and location of the nearest counseling organization. Call today. The longer you wait, the fewer options you may have for a desirable result.

Information About the Foreclosure Process

You do not need to move at the time of the sheriff's sale. After the sheriff's sale you have the right to "redeem." Redeem means that you pay off the entire loan amount plus fees to keep your house. You can keep living in your home for a period of time. This is called a "redemption period." The redemption period is [insert number of months] months after the sheriff's sale. This redemption period is your chance to try and sell your home or refinance it with a different loan. You can also pay the redemption amount with any other funds you have available. At the end of the redemption period you will have to leave your home. If you do not, the person or company that bid on your home at the sheriff's sale has the right to file an eviction against you in district court."

EFFECTIVE DATE. This section is effective August 1, 2008, and applies to notices of sale first published on or after that date.

Sec. 11. **[580.042] FORECLOSURE ADVICE NOTICE TO TENANT.**

Subdivision 1. **Applicability.** This section applies to foreclosure of mortgages under this chapter.

Subd. 2. **Form of delivery of notice.** The notice required by this section must be in 14-point boldface type and must be printed on colored paper that is other than the color of the notice of foreclosure and of the notice to be given under section 580.041, subdivision 1b, and that does not obscure or overshadow the content of the notice. The title of the notice must be in 20-point boldface type. The notice must be on its own page.

Subd. 3. **Content of notice.** The notice required by this section must appear substantially as follows.

"Foreclosure: Advice to Tenants

You are renting in a property that is in foreclosure. Minnesota law requires that we send you this

notice about the foreclosure process. Please read it carefully.

The mortgage foreclosure does not change the terms of your lease. You and your landlord must continue to follow the terms of your lease, including the rights and responsibilities of you and your landlord. You must keep paying rent unless you have a legal reason to withhold it. Your landlord must keep the property repaired. Utilities must be paid under the terms of your lease or under state law.

Moving out of the property early might be a violation of your lease. The date of the sheriff's foreclosure sale is in the attached foreclosure notice. In most cases you do not need to move from the property before the sheriff's foreclosure sale. Read your lease to see if it says anything about foreclosure and about the rights you may have if the property is in foreclosure. If you have a month-to-month lease, the foreclosure notice does not change the rules for ending your lease. You and your landlord must still give legal notice to end your lease.

In most cases, your landlord has six months after the date of the sheriff's foreclosure sale to pay off the mortgage. This is called the "redemption period." Read the attached foreclosure notice to determine the length of the redemption period. You cannot be asked to move during the redemption period except for lease violations or if your lease expires during the redemption period. If your landlord stops the foreclosure, you may not have to move from the property. If your landlord does not stop the foreclosure, there will be a new owner of the property at the end of the redemption period.

The new owner may have the legal right to ask you to move even if your lease is not over. But, the new owner must still give you a written notice stating that the new owner wants you to move.

Do not wait to get information about foreclosure. Mortgage foreclosure is a complicated process. It is important you learn about your rights as a renter when there is a mortgage foreclosure. You may have fewer options if you wait too long. There are government agencies and nonprofit organizations that you may contact for helpful information about the foreclosure process. For the name and telephone number of an organization near you, please call the legal aid office or bar association office in your county. You also can find information on tenant rights at HOME Line at (866) 866-3546 and Law Help Minnesota at <http://www.LawHelpMN.org>. The state of Minnesota does not guarantee the advice of these agencies and organizations."

Subd. 4. 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. The affidavit and a certified copy of a recorded affidavit is prima facie evidence of the facts stated in the affidavit. The affidavit may be recorded regarding any foreclosure sale, including foreclosure sales that occurred prior to August 1, 2008, and may be recorded separately or as part of the record of a foreclosure.

Subd. 5. Validation of foreclosure sales; remedy for violation. (a) No mortgage foreclosure sale under this chapter is invalid because of failure to comply with this section.

(b) A person who violates this section is liable for \$500 to the lessee of the mortgagor at the time the notice should have been served. A person is not liable in an action for a violation of this section if the person shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error and the person adopted and maintained reasonable procedures to

avoid the error. A plaintiff does not have cause of action if the defendant has complied with section 580.03.

EFFECTIVE DATE. This section is effective August 1, 2008, and applies to notices of sale first published on or after that date.

Sec. 12. Minnesota Statutes 2006, section 580.06, is amended to read:

580.06 SALE, HOW AND BY WHOM MADE.

The sale shall be made by the sheriff or the sheriff's deputy at public vendue to the highest bidder, in the county in which the premises to be sold, or some part thereof, are situated, between 9:00 a.m. and ~~the setting of the sun~~ 4:00 p.m.

Sec. 13. Minnesota Statutes 2006, section 580.07, is amended to read:

580.07 POSTPONEMENT.

The sale may be postponed, from time to time, by the party conducting the foreclosure, by inserting a notice of the postponement, as soon as practicable, in the newspaper in which the original advertisement was published, ~~and continuing the publication until the time to which the sale is postponed,~~ at the expense of the party requesting the postponement. The notice shall be published only once.

EFFECTIVE DATE. This section is effective August 1, 2008, and applies to sheriff's sales scheduled to occur on or after that date.

Sec. 14. Minnesota Statutes 2006, section 580.12, is amended to read:

580.12 CERTIFICATE OF SALE; RECORD; EFFECT.

When any sale of real property is made under a power of sale contained in any mortgage, the officer shall make and deliver to the purchaser a certificate, executed in the same manner as a conveyance, containing:

- (1) a description of the mortgage;
- (2) a description of the property sold;
- (3) the price paid for each parcel sold;
- (4) the time and place of the sale, and the name of the purchaser;
- (5) the interest rate in effect on the date of the sheriff's sale; and

~~(5)~~ (6) the time allowed by law for redemption, provided that if the redemption period stated in the certificate is five weeks and a longer redemption period was stated in the published notice of foreclosure sale, a certified copy of the court order entered under section 582.032, authorizing reduction of the redemption period to five weeks, must be attached to the certificate.

A certificate which states a five-week redemption period must be recorded within ten days after the sale; any other certificate must be recorded within 20 days after the sale. When so recorded, upon expiration of the time for redemption, the certificate shall operate as a conveyance to the purchaser or the purchaser's assignee of all the right, title, and interest of the mortgagor in and to the premises

named therein at the date of such mortgage, without any other conveyance. A certificate must not contain a time allowed for redemption that is less than the time specified by section 580.23, 582.032, or 582.32, whichever applies.

EFFECTIVE DATE. This section is effective August 1, 2008, and applies to sheriff's sales conducted on or after that date.

Sec. 15. Minnesota Statutes 2006, section 580.23, subdivision 1, is amended to read:

Subdivision 1. **Six-month redemption period.** (a) When lands have been sold in conformity with the preceding sections of this chapter, the mortgagor, the mortgagor's personal representatives or assigns, within six months after such sale, except as otherwise provided in subdivision 2 or section 582.032 or 582.32, may redeem such lands, as hereinafter provided, by paying the sum of money for which the same were sold, with interest from the time of sale at the rate provided to be paid on the mortgage debt as stated in the certificate of sale and, if no rate be provided in the mortgage note certificate of sale, at the rate of six percent per annum, together with any further sums which may be payable as provided in sections 582.03 and 582.031.

(b) Delivery of funds and documents for redemption must be made at the normal place of business of the recipient, on days other than Sunday, Saturday, and legal holidays, between the hours of 9:00 a.m. and 4:00 p.m.

(c) Regardless of the length of the redemption period, the sheriff may accept a specific sum less than the full amount due for redemption by the mortgagor upon receipt by the sheriff, prior to expiration of the redemption period, of written confirmation from the holder of the sheriff's certificate or the attorney for the holder of the sheriff's certificate that the holder of the sheriff's certificate has agreed to accept a specific sum less than the full amount due for redemption.

EFFECTIVE DATE. Paragraph (a) of this section is effective August 1, 2008, and applies to sheriff's sales conducted on or after that date. Paragraph (b) of this section is effective August 1, 2008, and applies to redemptions made on or after that date. Paragraph (c) of this section is effective the day following final enactment.

Sec. 16. Minnesota Statutes 2007 Supplement, section 580.24, is amended to read:

580.24 REDEMPTION BY CREDITOR.

(a) If no redemption is made by the mortgagor, the mortgagor's personal representatives or assigns, the most senior creditor having a legal or equitable lien upon the mortgaged premises, or some part of it, subsequent to the foreclosed mortgage, may redeem within seven days after the expiration of the redemption period determined under section 580.23 or 582.032, whichever is applicable; and each subsequent creditor having a lien may redeem, in the order of priority of their respective liens, within seven days after the time allowed the prior lienholder by paying the amount required under this section. However, no creditor is entitled to redeem unless, within one week or more prior to the expiration of the period allowed for redemption by the mortgagor, the creditor:

(1) records with each county recorder and registrar of titles where the foreclosed mortgage is recorded a notice of the creditor's intention to redeem;

(2) records ~~in each office~~ with each county recorder and registrar of titles where the notice of the creditor's intention to redeem is recorded all documents necessary to create the lien on the

mortgaged premises and to evidence the creditor's ownership of the lien, including a copy of any money judgment necessary to create the lien; and

(3) after complying with clauses (1) and (2), delivers to the sheriff who conducted the foreclosure sale or the sheriff's successor in office a copy of each of the documents required to be recorded under clauses (1) and (2), with the office, date and time of filing for record stated on the first page of each document.

The sheriff shall maintain for public inspection all documents delivered to the sheriff and shall note the date of delivery on each document. The sheriff may charge a fee of \$100 for the documents delivered to the sheriff relating to each lien. The sheriff shall maintain copies of documents delivered to the sheriff for a period of six months after the end of the mortgagor's redemption period.

(b) Saturdays, Sundays, legal holidays, and the first day following the expiration of the prior redemption period must be included in computing the seven-day redemption period. When the last day of the period falls on Saturday, Sunday, or a legal holiday, that day must be omitted from the computation. The order of redemption by judgment creditors subsequent to the foreclosed mortgage shall be determined by the order in which their judgments were entered as memorials on the certificate of title for the foreclosed premises or docketed in the office of the district court administrator if the property is not registered under chapter 508 or 508A, regardless of the homestead status of the property. All mechanic's lienholders who have coordinate liens shall have one combined seven-day period to redeem.

(c) The amount required to redeem from the holder of the sheriff's certificate of sale is the amount required under section 580.23. The amount required to redeem from a person holding a certificate of redemption is:

- (1) the amount paid to redeem as shown on the certificate of redemption; plus
- (2) interest on that amount to the date of redemption; plus
- (3) the amount claimed due on the person's lien, as shown on the affidavit under section 580.25, clause (3).

The amount required to redeem may be paid to the holder of the sheriff's certificate of sale or the certificate of redemption, as the case may be, or to the sheriff for the holder.

EFFECTIVE DATE. This section is effective August 1, 2008, and applies to redemptions by creditors in which the mortgagor's redemption period expires on or after August 8, 2008.

Sec. 17. Minnesota Statutes 2006, section 580.25, is amended to read:

580.25 REDEMPTION, HOW MADE.

Redemption shall be made as provided in this section.

The person desiring to redeem shall pay the amount required by law for the redemption, and shall produce to the person or officer receiving the redemption payment:

- (1) a copy of the docket of the judgment, or of the recorded deed or mortgage, or of the record or files evidencing any other lien under which the person claims a right to redeem, ~~certified by the officer with custody of the docket, record, or files, or the original deed or mortgage with the~~

~~certificate of record endorsed on it;~~

(2) a copy of any recorded assignment necessary to evidence the person's ownership of the lien, ~~certified by the officer with custody of the assignment, or the original of each instrument of assignment with the certificate of record endorsed on it.~~ If the redemption is under an assignment of a judgment, the assignment shall be filed in the court entering the judgment, as provided by law, and the person so redeeming shall produce a certified copy of it and of the record of its filing, and the copy of the docket shall show that the proper entry was made upon the docket. No further evidence of the assignment of the judgment is required unless the mortgaged premises or part of it is registered property, in which case the judgment and all assignments of the judgment must be entered as a memorial upon the certificate of title to the mortgaged premises and the original a copy of the judgment and each assignment with the certificate of record endorsed on it, ~~or a copy certified by the registrar of titles,~~ must be produced; and

(3) an affidavit of the person or the person's agent, showing the amount then actually claimed due on the person's lien and required to be paid on the lien in order to redeem from the person. Additional fees and charges may be claimed due only as provided in section 582.03.

If redemption is made to the sheriff, the sheriff may charge a fee of \$250 for issuing the certificate of redemption and any related service. No other fee may be charged by the sheriff for a redemption.

Within 24 hours after a redemption is made, the person redeeming shall cause the documents so required to be produced to be filed recorded with the county recorder, or registrar of titles, who may receive fees as prescribed in section 357.18 or 508.82. If the redemption is made at any place other than the county seat, it is sufficient forthwith to deposit the documents in the nearest post office, addressed to the recorder or registrar of titles, with the postage prepaid. A person recording documents produced for redemption shall, on the same day, deliver copies of the documents to the sheriff for public inspection. The sheriff may receive a fee of \$20 for the documents delivered following a redemption. The sheriff shall note the date of delivery on the documents and shall maintain for public inspection all documents delivered to the sheriff for a period of six months after the end of the mortgagor's redemption period.

EFFECTIVE DATE. This section is effective August 1, 2008, and applies to redemptions made on or after that date.

Sec. 18. Minnesota Statutes 2006, section 580.28, is amended to read:

580.28 ACTION TO SET ASIDE MORTGAGE; FORECLOSURE; REDEMPTION.

When an action is brought wherein it is claimed that any mortgage as to the plaintiff or person for whose benefit the action is brought is fraudulent or void, or has been paid or discharged, in whole or in part, or the relative priority or the validity of liens is disputed, if such mortgage has been foreclosed by advertisement, and the time for redemption from the foreclosure sale will expire before final judgment in such action, the plaintiff or beneficiary having the right to redeem, for the purpose of saving such right in case the action fails, may deposit with the sheriff before the time of redemption expires the amount for which the mortgaged premises were sold, with interest thereon to the time of deposit, together with a bond to the holder of the sheriff's certificate of sale, in an amount and with sureties to be approved by the sheriff, conditioned to pay all interest that may accrue or be allowed on such deposit if the action fail. The person shall, in writing, notify such sheriff that the person claims the mortgage to be fraudulent or void, or to have been paid or discharged, in whole or

in part, as the case may be, and that such action is pending, and direct the sheriff to retain such money and bond until final judgment. In case such action fails, such deposit shall operate as a redemption of the premises from such foreclosure sale, and entitle the plaintiff to a certificate thereof. Such foreclosure, deposit, bond, and notice shall be brought to the attention of the court by supplemental complaint in the action, and the judgment shall determine the validity of the foreclosure sale, and the rights of the parties to the moneys and bond so deposited, which shall be paid and delivered by the sheriff as directed by such judgment upon delivery to the sheriff of a certified copy thereof. The remedy herein provided shall be in addition to other remedies now existing.

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

Sec. 19. Minnesota Statutes 2006, section 580.30, is amended to read:

580.30 MORTGAGES, WHEN REINSTATED.

Subdivision 1. **Reinstatement.** In any proceedings for the foreclosure of a real estate mortgage, whether by action or by advertisement, if at any time before the sale of the premises under such foreclosure the mortgagor, the owner, or any holder of any subsequent encumbrance or lien, or any one for them, shall pay or cause to be paid to the holder of the mortgage so being foreclosed, or to the attorney foreclosing the same, or to the sheriff of the county, the amount actually due thereon and constituting the default actually existing in the conditions of the mortgage at the time of the commencement of the foreclosure proceedings, including insurance, delinquent taxes, if any, upon the premises, interest to date of payment, cost of publication and services of process or notices, attorney's fees not exceeding \$150 or one-half of the attorney's fees authorized by section 582.01, whichever is greater, together with other lawful disbursements necessarily incurred in connection with the proceedings by the party foreclosing, then, and in that event, the mortgage shall be fully reinstated and further proceedings in such foreclosure shall be thereupon abandoned.

Subd. 2. **Request by sheriff.** Upon written request by the sheriff, the holder of the mortgage or the holder's legal representative shall provide to the sheriff within seven days of the date of the request by the sheriff to the foreclosing attorney: (1) the current payoff amount, showing outstanding principal, interest, and a daily interest accrual amount, (2) an itemized schedule of the current amounts necessary to reinstate the mortgage, and (3) the identity of the person or entity with authority to act on behalf of the holder of the mortgage or the holder's legal representative. If the holder of the mortgage or the holder's legal representative fails to respond to the sheriff's request within seven days of the date of the request, the sheriff shall postpone the sheriff's sale and the sheriff shall announce at the sheriff's sale the postponement of the sale. The postponement does not need to be published. If the request by the sheriff is made seven days or less before the sheriff's sale, the holder of the mortgage or the holder's representative shall make a good faith effort to respond to the sheriff before the sheriff's sale, but the sheriff may conduct the sheriff's sale without a response from the holder of the mortgage or the holder's legal representative.

EFFECTIVE DATE. This section is effective August 1, 2008, and applies to sheriff's sales scheduled to occur on or after that date.

Sec. 20. Minnesota Statutes 2006, section 581.10, is amended to read:

581.10 REDEMPTION BY MORTGAGOR, CREDITOR.

The mortgagor, or those claiming under the mortgagor, within the time specified in section

580.23 or 582.032, whichever applies, after the date of the order of confirmation, may redeem the premises sold, or any separate portion thereof, by paying the amount bid therefor, with interest thereon from the time of sale ~~at the rate provided to be paid on the mortgage debt, not to exceed eight percent per annum, and, if no rate to be provided in the mortgage, at the rate of six percent~~ stated in the certificate of sale or, if no rate is provided in the certificate of sale, at the rate of six percent per annum, together with any further sum which may be payable pursuant to section 582.03 and 582.031. Creditors having a lien may redeem in the order and manner specified in section 580.24.

EFFECTIVE DATE. This section is effective August 1, 2008, and applies to redemptions from sheriff's sales conducted on or after that date.

Sec. 21. Minnesota Statutes 2006, section 582.03, is amended to read:

582.03 PURCHASER MAY PAY TAXES AND OTHER EXPENSES DUE.

Subdivision 1. Allowable costs collectable upon redemption. The purchaser at any holder of any sheriff's certificate of sale, upon from a foreclosure by advertisement or action of a mortgage or lien or execution or at any judicial sale, or the holder of any certificate of redemption as a junior creditor during the period of redemption, may pay and claim the following on redemption: any taxes or assessments on which any penalty would otherwise accrue, and may pay the premium upon any policy of insurance procured in renewal of any expiring policy upon any costs of a hazard insurance policy for the holder's interest in the mortgaged premises incurred for the period of holding the sheriff's certificate, any costs incurred when an order to reduce a mortgagor's redemption period under section 582.032 is entered, any fees paid to the county recorder, registrar of titles, or sheriff to obtain or record the certificates of sale or redemption or notices of intention to redeem, any reasonable fees paid to licensed real estate brokers for broker price opinions or to licensed appraisers for appraisals, any deed tax paid to file a certificate of redemption, reasonable attorney fees incurred after the foreclosure sale not to exceed one-half of the amount authorized by section 582.01, may pay any costs incurred under section 582.031, and may, in case any interest or installment of principal upon any prior or superior mortgage, lien, or contract for deed is in default or shall become that becomes due during the period of redemption, pay the same, and, In all such cases, the sum costs so paid and claimed due, with interest, shall be a part of the sum required to be paid to redeem from such sale. No other costs, fees, interest, or other amount may be added to the amount necessary to redeem.

Subd. 2. Affidavit of allowable costs. Such Any payments made and claimed due under subdivision 1 shall be proved by the affidavit of the purchaser or the purchaser's holder of the sheriff's certificate or its agent or attorney, stating the items itemizing each of the allowable costs and describing the premises, which must be filed for record with the county recorder or registrar of titles, and a copy thereof shall be furnished to the sheriff at least ten days before the expiration of the period of redemption. The affidavit must be filed with the sheriff of the county in which the sale was held at any time prior to expiration of the mortgagor's redemption period. Upon written request by the sheriff, the holder of the sheriff's certificate or certificate of redemption shall provide an affidavit of allowable costs to the sheriff within seven days of the date of the request by the sheriff. If the mortgagor does not redeem within seven days after the affidavit is filed, the holder of the sheriff's certificate may file a supplemental affidavit if additional allowable costs are incurred during the redemption period. If the holder of the sheriff's certificate or certificate of redemption fails to respond to the sheriff's request within seven days, the sheriff may calculate a redemption amount pursuant to section 580.23, subdivision 1, and issue a certificate of redemption for that

amount. If the time allowed to redeem is less than seven days from the expiration of the redemption period, the sheriff shall make a reasonable effort to request the affidavit of allowable costs in writing from the holder of the sheriff's certificate, its agent, or attorney before issuing a certificate of redemption. If the affidavit of allowable costs is not provided more than one business day before the expiration of the redemption period, at any time one business day or less before the expiration of the redemption period, the sheriff may calculate a redemption amount pursuant to section 580.23, subdivision 1, and issue a certificate of redemption for that amount. The amount calculated by the sheriff, absent malfeasance by the sheriff, binds the holder of the sheriff's certificate even if the amount calculated by the sheriff is less than the actual amount due.

Subd. 3. **Penalty for excessive costs.** At any time within one year after the expiration of the mortgagor's redemption period, the redeeming party, heirs, or assigns may recover from the holder of the sheriff's certificate three times the amount of any sums declared as costs or disbursements on the affidavit of allowable costs but not actually paid by the holder, or three times the amount of any sums determined to exceed a reasonable cost for the declared item where the excess has been retained by the lender, unless the disputed amounts are paid to the redeeming party, heirs, or assigns prior to entry of judgment.

EFFECTIVE DATE. This section is effective August 1, 2008, and applies to redemptions made on or after that date.

Sec. 22. Minnesota Statutes 2006, section 582.031, is amended to read:

582.031 LIMITED RIGHT OF ENTRY.

Subdivision 1. **Right of entry.** If premises described in a mortgage or sheriff's certificate are vacant or unoccupied, the holder of the mortgage or sheriff's certificate or the holder's agents and contractors may, but is under no obligation to, enter upon the premises to protect the premises from waste, until the holder of the mortgage or sheriff's certificate receives notice that the premises are occupied. The holder of the mortgage or sheriff's certificate does not become a mortgagee in possession by taking actions authorized under this section. An affidavit of the sheriff, the holder of the mortgage or sheriff's certificate, or a person acting on behalf of the holder, describing the premises and stating that the same are vacant or unoccupied, is prima facie evidence of the facts stated in the affidavit and is entitled to be recorded in the office of the county recorder or the registrar of titles in the county where the premises are located, if it contains a legal description of the premises.

Subd. 2. **Authorized actions.** The holder of the mortgage or sheriff's certificate may take the following actions to protect the premises from waste: or from falling below minimum community standards for public safety and sanitation: make reasonable periodic inspections, install or change locks on doors and windows, board windows, install an alarm system, ~~provide a resident caretaker,~~ and otherwise prevent or minimize damage to the premises from the elements, vandalism, trespass, or other illegal activities. If the holder of the mortgage or sheriff's certificate installs or changes locks under this section, a key to the premises must be promptly delivered to the mortgagor or any person lawfully claiming through the mortgagor, upon request.

Subd. 3. **Costs.** All costs incurred by the holder of the mortgage to protect the premises from waste or from falling below minimum community standards for public safety and sanitation may be added to the principal balance of the mortgage. The costs may bear interest to the extent provided in the mortgage and may be added to the redemption price if the costs are incurred after a foreclosure sale. If the costs are incurred after a foreclosure sale, the purchaser at the foreclosure sale holder

of any sheriff's certificate of sale or certificate of redemption must comply with the provisions of section 582.03. The provisions of this section are in addition to, and do not limit or replace, any other rights or remedies available to holders of mortgages and sheriff's certificates, at law or under the applicable mortgage agreements.

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

Sec. 23. Laws 2004, chapter 263, section 26, is amended to read:

Sec. 26. **EFFECTIVE DATE; EXPIRATION.**

Sections 1 to 18, 22, 23, and 25 are effective August 1, 2004, ~~and expire December 31, 2009.~~
Sections 19, 20, 21, and 24 are effective July 1, 2004."

Delete the title and insert:

"A bill for an act relating to property; revising procedures and fees charged by county registrars of title for registering supplemental declarations of common interest communities; providing for transfer on death deeds; clarifying acknowledgments made in a representative capacity; clarifying application of certain common law doctrine to registered land; eliminating obsolete language and making other technical and conforming changes; modifying the Uniform Probate Code; amending provisions relating to mortgage foreclosure; providing for foreclosure prevention counseling; prescribing preforeclosure and foreclosure notices; amending Minnesota Statutes 2006, sections 256B.15, subdivisions 1h, 1i; 272.12; 287.22; 507.092, subdivision 1; 508.02; 508.48; 508.52; 508.671, subdivision 1; 508.82, subdivision 1; 508A.02, subdivision 1; 508A.48; 508A.52; 515B.1-116; 524.2-301; 524.2-402; 524.2-702; 524.3-801; 524.3-803; 557.02; 580.02; 580.03; 580.041, subdivision 2; 580.06; 580.07; 580.12; 580.23, subdivision 1; 580.25; 580.28; 580.30; 581.10; 582.03; 582.031; Minnesota Statutes 2007 Supplement, sections 507.24, subdivision 2; 510.05; 550.19; 550.22; 550.24; 580.24; Laws 2004, chapter 263, section 26; proposing coding for new law in Minnesota Statutes, chapters 507; 580."

We request the adoption of this report and repassage of the bill.

House Conferees: (Signed) Debra Hilstrom, Gene Pelowski Jr., Steve Smith

Senate Conferees: (Signed) Mee Moua, Linda Scheid, Warren Limmer

Senator Moua moved that the foregoing recommendations and Conference Committee Report on H.F. No. 3420 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 3420 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson
Bakk

Berglin
Betzold

Bonoff
Carlson

Chaudhary
Clark

Cohen
Dahle

Day	Ingebrigtsen	Lynch	Pogemiller	Sieben
Dibble	Johnson	Marty	Prettner Solon	Skoe
Dille	Jungbauer	Metzen	Rest	Skogen
Doll	Koch	Michel	Robling	Sparks
Erickson Ropes	Koering	Moua	Rosen	Stumpf
Fischbach	Kubly	Olseen	Rummel	Tomassoni
Foley	Langseth	Olson, G.	Saltzman	Torres Ray
Gerlach	Larson	Olson, M.	Saxhaug	Vandever
Gimse	Latz	Ortman	Scheid	Vickerman
Hann	Limmer	Pappas	Senjem	Wiger
Higgins	Lourey	Pariseau	Sheran	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

CALL OF THE SENATE

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

MOTIONS AND RESOLUTIONS - CONTINUED

Pursuant to Rule 26, Senator Pogemiller, Chair of the Committee on Rules and Administration, designated H.F. No. 1875 a Special Order to be heard immediately.

SPECIAL ORDER

H.F. No. 1875: A bill for an act relating to health; modifying board of directors for comprehensive health association; amending Minnesota Statutes 2006, section 62E.10, subdivision 2.

Senator Betzold moved to amend H.F. No. 1875, the unofficial engrossment, as follows:

Page 4, delete lines 21 to 28 and insert:

"(j) Notwithstanding paragraph (d), the pool and the commissioner of finance may enter into a mutually beneficial agreement whereby the pool's health plans would be coordinated with the plan offered by the commissioner under section 43A.23 or 43A.316, but would not be merged with either of those plans. The agreement may contain provisions that vary from those of paragraph (d) to conform to the benefit sets or other terms under section 43A.23 or 43A.316. The agreement may also provide that the pool and the commissioner will jointly solicit bids for use of provider networks, claims processing, and other administrative services. If an agreement is entered into, persons covered through the pool must continue to be rated separately for premium purposes from persons covered under section 43A.23 or 43A.316. An agreement under this paragraph must not result in the pool becoming self-insured or in the pool sharing risk with a plan offered by the commissioner. The pool must continue to transfer its risk to a health plan company authorized to do business in this state."

The motion prevailed. So the amendment was adopted.

CALL OF THE SENATE

Senator Bonoff imposed a call of the Senate for the balance of the proceedings on H.F. No. 1875. The Sergeant at Arms was instructed to bring in the absent members.

Senator Bonoff moved to amend H.F. No. 1875, the unofficial engrossment, as follows:

Page 3, line 12, after "(b)" insert "Subject to subdivision 5,"

Page 4, after line 28, insert:

"Subd. 5. **Opt-out election.** Upon petition by at least 15 percent of the eligible employees of an eligible employer, a vote of eligible employees shall be held to determine whether to opt out of health coverage offered by the board. An election to opt out by majority vote of eligible employees is effective for a period of five years. An opt-out election under this subdivision may not be held more than once every two years."

Renumber the subdivisions in sequence and correct the internal references

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 27 and nays 37, as follows:

Those who voted in the affirmative were:

Bonoff	Gimse	Latz	Pariseau	Vandev eer
Day	Hann	Limmer	Robling	Wergin
Dibble	Ingebrigtsen	Lynch	Rummel	Wiger
Doll	Johnson	Michel	Saltzman	
Fischbach	Koch	Olson, G.	Senjem	
Gerlach	Koering	Ortman	Sheran	

Those who voted in the negative were:

Anderson	Dille	Lourey	Pogemiller	Sparks
Bakk	Erickson Ropes	Marty	Prettner Solon	Stumpf
Betzold	Foley	Metzen	Rosen	Tomassoni
Carlson	Higgins	Moua	Saxhaug	Torres Ray
Chaudhary	Jungbauer	Murphy	Scheid	Vickerman
Clark	Kubly	Olseen	Sieben	
Cohen	Langseth	Olson, M.	Skoe	
Dahle	Larson	Pappas	Skogen	

The motion did not prevail. So the amendment was not adopted.

Senator Saltzman moved to amend H.F. No. 1875, the unofficial engrossment, as follows:

Delete everything after the enacting clause and insert:

"Section 1. COMMISSIONER OF FINANCE; STUDY.

The commissioner of finance, in consultation with other relevant state agencies and interested parties, shall study issues related to the inclusion of school district employees in the state employee group insurance plan (SEGIP), either combined with other persons currently covered by the SEGIP or as a separately rated group for premium purposes in a plan administered by the commissioner

and based upon the SEGIP. The commissioner shall also study issues related to the inclusion of school district employees in the public employees insurance program (PEIP). The study shall include analysis of costs, reserve requirements and other regulatory issues, effects on the SEGIP or PEIP and the school districts, and any other factor deemed relevant by the commissioner to legislative consideration of this proposal. The commissioner shall report to the legislature by January 15, 2009, on results of the study."

Delete the title and insert:

"A bill for an act relating to education; requiring a study by the commissioner of finance of inclusion of school district employees in the state employees group insurance plan."

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 29 and nays 36, as follows:

Those who voted in the affirmative were:

Bonoff	Gerlach	Koering	Pariseau	Sheran
Carlson	Hann	Latz	Robling	Skogen
Day	Ingebrigtsen	Limmer	Rosen	Vandevveer
Dille	Johnson	Michel	Rummel	Wergin
Doll	Jungbauer	Olson, G.	Saltzman	Wiger
Fischbach	Koch	Ortman	Senjem	

Those who voted in the negative were:

Anderson	Erickson Ropes	Lynch	Pogemiller	Stumpf
Bakk	Foley	Marty	Prettner Solon	Tomassoni
Betzold	Gimse	Metzen	Rest	Torres Ray
Chaudhary	Higgins	Moua	Saxhaug	Vickerman
Clark	Kubly	Murphy	Scheid	
Cohen	Langseth	Olseen	Sieben	
Dahle	Larson	Olson, M.	Skoe	
Dibble	Lourey	Pappas	Sparks	

The motion did not prevail. So the amendment was not adopted.

H.F. No. 1875 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 41 and nays 25, as follows:

Those who voted in the affirmative were:

Anderson	Dille	Langseth	Pappas	Skogen
Bakk	Erickson Ropes	Larson	Pogemiller	Sparks
Betzold	Foley	Lourey	Prettner Solon	Tomassoni
Carlson	Frederickson	Marty	Rest	Torres Ray
Chaudhary	Gimse	Metzen	Rosen	Vickerman
Clark	Higgins	Moua	Saxhaug	
Cohen	Jungbauer	Murphy	Scheid	
Dahle	Koering	Olseen	Senjem	
Dibble	Kubly	Olson, M.	Sieben	

Those who voted in the negative were:

Bonoff	Fischbach	Ingebrigtsen	Latz	Michel
Day	Gerlach	Johnson	Limmer	Olson, G.
Doll	Hann	Koch	Lynch	Ortman

Pariseau
Robling

Rummel
Saltzman

Sheran
Skoe

Stumpf
Vandever

Wergin
Wiger

So the bill, as amended, was passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 960 and 3377.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 15, 2008

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 3138, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 3138: A bill for an act relating to health; changing provisions for handling genetic information; amending Minnesota Statutes 2006, sections 13.386, subdivision 3; 144.05, by adding a subdivision; Minnesota Statutes 2007 Supplement, section 144.125, subdivision 3.

Senate File No. 3138 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 15, 2008

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Orders of Business of Reports of Committees and Second Reading of Senate Bills.

REPORTS OF COMMITTEES

Senator Pogemiller moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Senator Pogemiller from the Committee on Rules and Administration, to which was referred under Joint Rule 2.03, together with the committee report thereon,

S.F. No. 3349: A bill for an act relating to education; creating a responsible family life and sexuality education program; proposing coding for new law in Minnesota Statutes, chapter 121A.

Reports the same back with the recommendation that the report from the Committee on Education, shown in the Journal for May 7, 2008, be adopted; that committee recommendation being:

"the bill be amended and when so amended the bill do pass". Amendments adopted. Report adopted.

Senator Pogemiller from the Committee on Rules and Administration, pursuant to Senate Rule 5.2, upon the request of Senator Metzen, the chief author of

S.F. No. 2668: A bill for an act relating to public safety; controlled substances; adding Salvia divinorum to schedule IV of the controlled substance schedules; amending Minnesota Statutes 2006, section 152.02, subdivision 5.

Recommends that S.F. No. 2668 be withdrawn from the Committee on Judiciary, given its second reading, and placed on General Orders. Report adopted.

SECOND READING OF SENATE BILLS

S.F. Nos. 3349 and 2668 were read the second time.

MOTIONS AND RESOLUTIONS - CONTINUED

Senator Metzen moved that his name be stricken as chief author, and the name of Senator Murphy be added as chief author to S.F. No. 2668. The motion prevailed.

MEMBERS EXCUSED

Senator Vandever was excused from the Session of today from 9:00 to 9:35 a.m. Senators Ortman, Prettner Solon, Senjem and Sheran were excused from the Session of today from 9:00 to 10:00 a.m. Senator Berglin was excused from the Session of today from 9:00 to 10:00 a.m. and from 3:00 to 4:30 p.m. Senator Latz was excused from the Session of today from 9:00 a.m. to 12:00 noon. Senator Larson was excused from the Session of today from 9:00 a.m. to 12:40 p.m. Senator Frederickson was excused from the Session of today from 9:00 a.m. to 4:05 p.m. Senator Koering was excused from the Session of today from 12:30 to 12:40 p.m. Senator Wergin was excused from

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the Session of today from 12:40 to 1:00 p.m. Senator Rest was excused from the Session of today from 3:00 to 4:00 p.m.

ADJOURNMENT

Senator Pogemiller moved that the Senate do now adjourn until 12:00 noon, Friday, May 16, 2008. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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