

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

3 S.F. No. 391: A bill for an act relating to real property;
4 providing for certain defeasible estates; modifying residential
5 purchase agreement cancellations; amending the foreclosure
6 advice notice; amending Minnesota Statutes 2004, sections
7 500.20, subdivision 2a; 559.217, subdivisions 1, 3, 4, 5, 6;
8 580.041, by adding subdivisions.

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

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

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

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

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

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

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

1 prospective buyer closed the purchase or transfer of the real
2 property.

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

5 559.217 [DECLARATORY CANCELLATION OF RESIDENTIAL PURCHASE
6 AGREEMENT.]

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

10 (b) "Purchase agreement" means an earnest money contract,
11 purchase agreement, or exercised option ~~that could be canceled~~
12 ~~under section 559.217, subdivision 4, paragraph (a)~~ whether or
13 not the instrument is subject to section 559.21.

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

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

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

36 Subd. 3. [CANCELLATION WITH RIGHT TO CURE.] (a) If a

1 default occurs or an unfulfilled condition exists after the date
2 specified for fulfillment in the terms of a purchase agreement
3 for the conveyance of residential real property, which does not
4 by its terms cancel the purchase agreement, the purchaser or the
5 seller may initiate a cancellation by serving upon the other
6 party to the purchase agreement and any third party that is
7 holding earnest money under the purchase agreement a notice:

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

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

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

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

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

32 Subd. 4. [DECLARATORY CANCELLATION.] (a) If a default
33 occurs or an unfulfilled condition exists after the date
34 specified for fulfillment in the terms of a purchase agreement
35 for the conveyance of residential real property, which by the
36 terms of the purchase agreement cancels the purchase agreement,

1 either the purchaser or the seller may confirm the cancellation
2 by serving upon the other party to the purchase agreement and
3 any third party that is holding earnest money under the purchase
4 agreement a notice:

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

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

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

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

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

18 Subd. 5. [FORM OF NOTICE OF CANCELLATION.] (a) For
19 purposes of subdivision 3, the term "notice" means a writing
20 stating the information required in subdivision 3, paragraph
21 (a), stating the name, address, and telephone number of that
22 party serving the notice or of an attorney authorized by such
23 party to serve the notice, and including the following
24 information in 12-point or larger underlined uppercase type, or
25 8-point type if published ~~7-er-in-large-legible-handwritten~~
26 ~~letters~~:

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

35 (A) YOU HAVE FULLY COMPLIED WITH ALL OF YOUR OBLIGATIONS
36 UNDER THE PURCHASE AGREEMENT THAT WERE REQUIRED TO BE PERFORMED

1 AS OF THE DATE OF SERVICE OF THIS NOTICE, INCLUDING, WITHOUT
2 LIMITATION, THE ITEMS OF DEFAULT SPECIFIED IN THIS NOTICE,
3 OR AND THE UNFULFILLED CONDITIONS SPECIFIED IN THIS NOTICE ARE
4 COMPLETED, INCLUDING, IF APPLICABLE, COMPLETION OF THE PURCHASE
5 OR SALE OF THE RESIDENTIAL REAL PROPERTY ACCORDING TO THE TERMS
6 OF THE PURCHASE AGREEMENT; OR

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

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

18 HOWEVER, IF WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE
19 YOU SERVE YOUR OWN NOTICE UNDER MINNESOTA STATUTES, SECTION
20 559.217, YOUR PURCHASE AGREEMENT WILL BE IMMEDIATELY CANCELED,
21 BUT YOUR ENTITLEMENT TO EARNEST MONEY MUST BE DETERMINED BY A
22 COURT OR DETERMINED BY ARBITRATION IF AGREED TO BY THE PARTIES.

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

25 (b) For purposes of subdivision 4, the term "notice" means
26 a writing stating the information required in subdivision 4,
27 paragraph (a), stating the name, address, and telephone number
28 of the party serving the notice or of an attorney authorized by
29 ~~that~~ such party to serve the notice, and including the following
30 information in 12-point or larger underlined uppercase type, or
31 8-point type if published~~-or-in-large-legible-handwritten~~
32 ~~letters~~:

33 "THIS NOTICE IS PURSUANT TO MINNESOTA STATUTES, SECTION
34 559.217, TO INFORM YOU THAT YOUR PURCHASE AGREEMENT FOR THE
35 (PURCHASE) (SALE) (STRIKE ONE) OF THE ABOVE PROPERTY HAS BEEN
36 CANCELED FOR THE REASONS SPECIFIED IN THIS NOTICE. THE

1 CANCELLATION WILL BE CONFIRMED ... DAYS AFTER (SERVICE OF THIS
2 NOTICE UPON YOU) (THE FIRST DAY OF PUBLICATION OF THIS NOTICE)
3 (STRIKE ONE) UNLESS BEFORE THEN YOU SECURE FROM A DISTRICT COURT
4 AN ORDER THAT THE CONFIRMATION OF CANCELLATION OF THE PURCHASE
5 AGREEMENT BE SUSPENDED UNTIL YOUR CLAIMS OR DEFENSES ARE FINALLY
6 DISPOSED OF BY TRIAL, HEARING, OR SETTLEMENT. YOUR ACTION MUST
7 SPECIFICALLY STATE THOSE FACTS AND GROUNDS THAT DEMONSTRATE YOUR
8 CLAIMS OR DEFENSES.

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

16 HOWEVER, IF WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE
17 YOU SERVE YOUR OWN NOTICE UNDER MINNESOTA STATUTES, SECTION
18 559.217, YOUR PURCHASE AGREEMENT WILL BE IMMEDIATELY CANCELED,
19 BUT YOUR ENTITLEMENT TO EARNEST MONEY MUST BE DETERMINED BY A
20 COURT OR DETERMINED BY ARBITRATION IF AGREED TO BY THE PARTIES.

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

23 Subd. 6. [SUSPENSION OF CANCELLATION, ATTORNEY FEES, COURT
24 FEES, AND COSTS OF SERVICE.] ~~If-the-party~~ A seller or a
25 purchaser upon whom the notice is served ~~commences~~ may commence
26 a proceeding under section 559.211 to obtain a court order to
27 suspend the cancellation of a purchase agreement under this
28 section, and in the proceeding the court ~~shall~~ may award court
29 filing fees, attorney fees, and costs of service actually
30 expended to the prevailing party in an amount not to exceed
31 \$3,000.

32 Subd. 7. [AFFIDAVIT OF CANCELLATION.] (a) After a
33 cancellation under subdivision 3 or a confirmation of
34 cancellation under subdivision 4, the purchase agreement is void
35 and of no further force or effect, and, except as provided in
36 subdivision 2, any earnest money held under the purchase

1 agreement must be distributed to, and become the sole property
2 of, the party completing the cancellation of the purchase
3 agreement.

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

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

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

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

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

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

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

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

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

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

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

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

36 Subd. 4. [VALIDATION OF FORECLOSURE SALES.] No mortgage

1 foreclosure sale under this chapter shall be invalid because of
2 failure to comply with this section unless an action to
3 invalidate the sale is commenced and a notice of lis pendens is
4 filed with the county recorder or registrar of titles within one
5 year after the last day of the redemption period of the
6 mortgagor, the mortgagor's personal representatives, or assigns.
7 This subdivision shall not affect any action or proceeding
8 pending on August 1, 2005, or which is commenced before February
9 1, 2006, in any court of this state, provided a notice of lis
10 pendens of the action is filed with the county recorder or
11 registrar of titles before February 1, 2006.

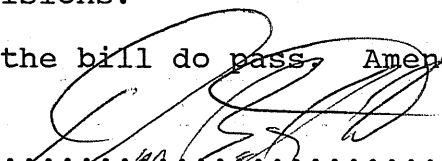
12 Sec. 8. [REVISOR'S INSTRUCTION.]

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

15 Delete the title and insert:

16 "A bill for an act relating to real property; providing for
17 certain defeasible estates; modifying residential purchase
18 agreement cancellations; amending the foreclosure advice notice;
19 amending Minnesota Statutes 2004, sections 500.20, subdivision
20 2a; 513.56, subdivision 3; 513.57, subdivision 2; 559.217;
21 580.041, by adding subdivisions."

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


.....
(Committee Chair)

February 8, 2005.....
(Date of Committee recommendation)

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

3 S.F. No. 392: A bill for an act relating to probate;
4 changing and clarifying certain venue, trustee powers, and
5 omitted beneficiary provisions; amending Minnesota Statutes
6 2004, sections 501B.17; 501B.705, subdivisions 2, 3, 4, 5;
7 524.2-302.

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

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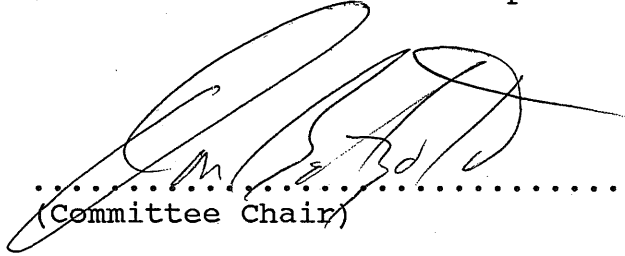
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.....
(Committee Chair)

February 8, 2005.....
(Date of Committee recommendation)

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

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

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

10 Delete everything after the enacting clause and insert:

11 "Section 1. [RAMSEY COUNTY COURT COMMISSIONER.]

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

18 Delete the title and insert:

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

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

24
25 (Committee Chair)

26
27 February 8, 2005.....
28 (Date of Committee recommendation)

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

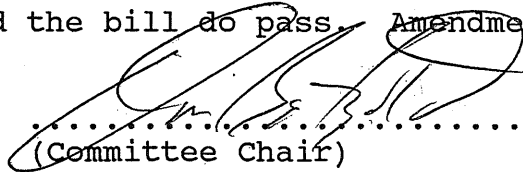
3 S.F. No. 288: A bill for an act relating to creditors
4 remedies; exempting certain jewelry from attachment,
5 garnishment, or sale; amending Minnesota Statutes 2004, section
6 550.37, subdivision 4.

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

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

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

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


.....
(Committee Chair)

February 8, 2005.....
(Date of Committee recommendation)

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

3 S.F. No. 393: A bill for an act relating to real property;
4 amending the Minnesota Common Interest Ownership Act; amending
5 Minnesota Statutes 2004, sections 515B.1-102; 515B.1-103;
6 515B.1-106; 515B.1-107; 515B.1-116; 515B.2-101; 515B.2-102;
7 515B.2-104; 515B.2-106; 515B.2-108; 515B.2-110; 515B.2-111;
8 515B.2-112; 515B.2-113; 515B.2-118; 515B.2-119; 515B.2-121;
9 515B.2-123; 515B.2-124; 515B.3-101; 515B.3-102; 515B.3-103;
10 515B.3-105; 515B.3-106; 515B.3-110; 515B.3-112; 515B.3-113;
11 515B.3-114; 515B.3-115; 515B.3-116; 515B.3-117; 515B.3-120;
12 515B.4-101; 515B.4-102; 515B.4-105; 515B.4-106; 515B.4-107;
13 515B.4-109; 515B.4-111; 515B.4-115.

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

16 Delete everything after the enacting clause and insert:

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

19 515B.1-102 [APPLICABILITY.]

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

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

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

33 (2) The following sections in this chapter apply to
34 condominiums created under chapter 515: 515B.1-104 (Variation
35 by Agreement); 515B.1-105 (Separate Titles and Taxation);
36 515B.1-106 (Applicability of Local Ordinances, Regulations, and
37 Building Codes); 515B.1-107 (Eminent Domain); 515B.1-108
38 (Supplemental General Principles of Law Applicable); 515B.1-109
39 (Construction Against Implicit Repeal); 515B.1-112
40 (Unconscionable Agreement or Term of Contract); 515B.1-113
41 (Obligation of Good Faith); 515B.1-114 (Remedies to be Liberally
42 Administered); 515B.1-115 (Notice); 515B.1-116 (Recording);

1 515B.2-103 (Construction and Validity of Declaration and
2 Bylaws); 515B.2-104 (Description of Units); 515B.2-108(d)
3 (Allocation of Interests); 515B.2-109(c) (Common Elements and
4 Limited Common Elements); 515B.2-112 (Subdivision or Conversion
5 of Units); 515B.2-113 (Alteration of Units); 515B.2-114
6 (Relocation of Boundaries Between Adjoining Units); 515B.2-115
7 (Minor Variations in Boundaries); 515B.2-118 (Amendment of
8 Declaration); 515B.2-119 (Termination of Common Interest
9 Community); 515B.3-102 (Powers of Unit Owners' Association);
10 515B.3-103(a), (b), and (g) (Board; Directors and Officers;
11 Period of Declarant Control); 515B.3-107 (Upkeep of Common
12 Interest Community); 515B.3-108 (Meetings); 515B.3-109
13 (Quorums); 515B.3-110 (Voting; Proxies); 515B.3-111 (Tort and
14 Contract Liability); 515B.3-112 (Conveyance or Encumbrance of
15 Common Elements); 515B.3-113 (Insurance); 515B.3-114 (Reserves;
16 Surplus Funds); 515B.3-115 (c), (e), (f), (g), (h), and (i)
17 (Assessments for Common Expenses); 515B.3-116 (Lien for
18 Assessments); 515B.3-117 (Other Liens); 515B.3-118 (Association
19 Records); 515B.3-119 (Association as Trustee); 515B.3-121
20 (Accounting Controls); 515B.4-107 (Resale of Units); 515B.4-108
21 (Purchaser's Right to Cancel Resale); and 515B.4-116 (Rights of
22 Action; Attorney's Fees). Section 515B.1-103 (Definitions)
23 shall apply to the extent necessary in construing any of the
24 sections referenced in this section. Sections 515B.1-105,
25 515B.1-106, 515B.1-107, 515B.1-116, 515B.2-103, 515B.2-104,
26 515B.2-118, 515B.3-102, 515B.3-110, 515B.3-111, 515B.3-113,
27 515B.3-116, 515B.3-117, 515B.3-118, 515B.3-121, 515B.4-107,
28 515B.4-108, and 515B.4-116 apply only with respect to events and
29 circumstances occurring on and after June 1, 1994. All other
30 sections referenced in this section apply only with respect to
31 events and circumstances occurring after July 31, 1999. A
32 section referenced in this section does not invalidate the
33 declarations, bylaws or condominium plats of condominiums
34 created before August 1, 1999. But all sections referenced in
35 this section prevail over the declarations, bylaws, CIC plats,
36 rules and regulations under them, of condominiums created before

1 August 1, 1999, except to the extent that this chapter defers to
2 the declarations, bylaws, CIC plats, or rules and regulations
3 issued under them.

4 (3) This chapter shall not apply to cooperatives and
5 planned communities created prior to June 1, 1994; except by
6 election pursuant to subsection (d), and except that sections
7 515B.1-116, subsections (a), (c), (d), (e), (f), and (h),
8 515B.4-107, and 515B.4-108, apply to all planned communities and
9 cooperatives regardless of when they are created, unless they
10 are exempt under subsection (e).

11 (c) This chapter shall not invalidate any amendment to the
12 declaration, bylaws or condominium plat of any condominium
13 created under chapter 515 or 515A if the amendment was recorded
14 before June 1, 1994. Any amendment recorded on or after June 1,
15 1994, shall be adopted in conformity with the procedures and
16 requirements specified by those instruments and by this
17 chapter. If the amendment grants to any person any rights,
18 powers or privileges permitted by this chapter, all correlative
19 obligations, liabilities and restrictions contained in this
20 chapter shall also apply to that person.

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

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

34 (2) In a condominium, the preexisting condominium plat
35 shall be the CIC plat and an amended CIC plat shall be required
36 only if the amended declaration or bylaws contain provisions

1 inconsistent with the preexisting condominium plat. The
2 condominium's CIC number shall be the apartment ownership number
3 or condominium number originally assigned to it by the recording
4 officer. In a cooperative in which the unit owners' interests
5 are characterized as real estate, a CIC plat shall be required.
6 In a planned community, the preexisting plat recorded pursuant
7 to chapter 505, 508, or 508A, or the part of the plat upon which
8 the common interest community is located, shall be the CIC plat.

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

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

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

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

24 (1) a planned community ~~or cooperative~~ which consists of ~~12~~
25 ~~or fewer~~ two units ~~subject to the same declaration, which~~
26 utilizes a common interest community plat complying with section
27 515B.2-110(d)(1) and (2), which is not subject to any rights
28 to subdivide or convert units or to add additional real estate,
29 and which ~~will~~ is not be subject to a master association;

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

36 (3) a cooperative where, at the time of creation of the

1 cooperative, the unit owners' interests in the dwellings as
2 described in the declaration consist solely of proprietary
3 leases having an unexpired term of fewer than 20 years,
4 including renewal options;

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

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

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

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

17 515B.1-103 [DEFINITIONS.]

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

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

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

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

34 (B) A person "is controlled by" a declarant if the
35 declarant (i) is a general partner, officer, director, or
36 employer of the person, (ii) directly or indirectly or acting in

1 concert with one or more other persons, or through one or more
2 subsidiaries, owns, controls, holds with power to vote, or holds
3 proxies representing, more than 20 percent of the voting
4 interest in the person, (iii) controls in any manner the
5 election of a majority of the directors of the person, or (iv)
6 has contributed more than 20 percent of the capital of the
7 person.

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

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

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

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

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

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

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

32 (9) "Common expense liability" means the liability for
33 common expenses allocated to each unit pursuant to section
34 515B.2-108.

35 (10) "Common interest community" or "CIC" means contiguous
36 or noncontiguous real estate within Minnesota that is subject to

1 an instrument which obligates persons owning a separately
2 described parcel of the real estate, or occupying a part of the
3 real estate pursuant to a proprietary lease, by reason of their
4 ownership or occupancy, to pay for (i) real estate taxes levied
5 against; (ii) insurance premiums payable with respect to; (iii)
6 maintenance of; or (iv) construction, maintenance, repair or
7 replacement of improvements located on, one or more parcels or
8 parts of the real estate other than the parcel or part that the
9 person owns or occupies. Real estate which satisfies the
10 definition of a common interest community is a common interest
11 community whether or not it is subject to this chapter. Real
12 estate subject to a master association, regardless of when the
13 master association was formed, shall not collectively constitute
14 a separate common interest community unless so stated in the
15 master declaration recorded against the real estate pursuant to
16 section 515B.2-121, subsection (f)(1).

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

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

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

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

34 (15) "Declarant" means:

35 (i) if the common interest community has been created, (A)
36 any person who has executed a declaration, or an amendment to a

1 declaration to add additional real estate, except secured
2 parties, persons whose interests in the real estate will not be
3 transferred to unit owners, or, in the case of a leasehold
4 common interest community, a lessor who possesses no special
5 declarant rights and who is not an affiliate of a declarant who
6 possesses special declarant rights, or (B) any person who
7 reserves, or succeeds under section 515B.3-104 to any special
8 declarant rights; or

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

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

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

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

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

26 (20) "Limited common element" means a portion of the common
27 elements allocated by the declaration or by operation of section
28 515B.2-102(d) or (f) for the exclusive use of one or more but
29 fewer than all of the units.

30 (21) "Master association" means an entity created on or
31 after June 1, 1994, that directly or indirectly exercises any of
32 the powers set forth in section 515B.3-102 on behalf of one or
33 more members described in section 515B.2-121(b), (i), (ii) or
34 (iii), whether or not it also exercises those powers on behalf
35 of one or more property owners owner's associations described in
36 section 515B.2-121(b)(iv). A person (i) hired by an association

1 to perform maintenance, repair, accounting, bookkeeping or
2 management services, or (ii) granted authority under an
3 instrument recorded primarily for the purpose of creating rights
4 or obligations with respect to utilities, access, drainage, or
5 recreational amenities, is not, solely by reason of that
6 relationship, a master association.

7 (22) "Master declaration" means a written instrument,
8 however named, (i) recorded on or after June 1, 1994, against
9 property subject to powers exercised by a master association and
10 (ii) ~~satisfying the requirements of~~ complying with section
11 515B.2-121, subsection (f)(1).

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

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

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

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

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

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

1 upper or lower boundaries, or spaces without physical boundaries.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 515B.1-106 [APPLICABILITY OF LOCAL REQUIREMENTS.]

32 (a) Except as provided in subsections (b) and (c), a
33 zoning, subdivision, building code, or other real estate use
34 law, ordinance, charter provision, or regulation may not
35 directly or indirectly prohibit the common interest community
36 form of ownership or impose any requirement upon a common

1 interest community, upon the creation or disposition of a common
2 interest community or upon any part of the common interest
3 community conversion process which it would not impose upon a
4 physically similar development under a different form of
5 ownership. Otherwise, no provision of this chapter invalidates
6 or modifies any provision of any zoning, subdivision, building
7 code, or other real estate use law, ordinance, charter
8 provision, or regulation.

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

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

1 adoption of the ordinance or charter provision.

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

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

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

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

18 515B.1-107 [EMINENT DOMAIN.]

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

34 (b) Except as provided in subsection (a), if part of a unit
35 is acquired by eminent domain, the award shall compensate the
36 unit owner and secured party for the reduction in value of the

1 unit and its interest in the common elements, whether or not any
2 common elements are acquired. Upon acquisition, unless the
3 order or final certificate otherwise provides, (i) that unit's
4 allocated interests are reduced in proportion to the reduction
5 in the size of the unit, or on any other basis specified in the
6 declaration and (ii) the portion of the allocated interests
7 divested from the partially acquired unit are automatically
8 reallocated to that unit and to the remaining units in
9 proportion to the respective allocated interests of those units
10 before the taking, with the partially acquired unit
11 participating in the reallocation on the basis of its reduced
12 allocated interests.

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

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

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

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

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

1 515B.1-116 [RECORDING.]

2 (a) A declaration, bylaws, any amendment to a declaration
3 or bylaws, and any other instrument affecting a common interest
4 community shall be entitled to be recorded. In those counties
5 which have a tract index, the county recorder shall enter the
6 declaration in the tract index for each unit or other tract
7 affected. The county recorder shall not enter the declaration
8 in the tract index for lands described as additional real
9 estate, unless such lands are added to the common interest
10 community pursuant to section 515B.2-111. The registrar of
11 titles shall file the declaration in accordance with section
12 508.351 or 508A.351. The registrar of titles shall not file the
13 declaration upon certificates of title for lands described as
14 additional real estate, unless such lands are added to the
15 common interest community pursuant to section 515B.2-111.

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

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

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

35 (e) If a common interest community is located on registered
36 land, the recording fee for any document affecting two or more

1 units shall be the then-current fee for registering the document
2 on the certificates of title for the first ten affected
3 certificates and one-third of the then-current fee for each
4 additional affected certificate. This provision shall not apply
5 to recording fees for deeds of conveyance, with the exception of
6 deeds given pursuant to sections 515B.2-119 and 515B.3-112. The
7 same fees shall apply to recording any document affecting two or
8 more units or other parcels of real estate subject to a master
9 declaration.

10 (f) Except as permitted under this subsection, a recording
11 officer shall not file or record a declaration creating a new
12 common interest community, unless the county treasurer has
13 certified that the property taxes payable in the current year
14 for the real estate included in the proposed common interest
15 community have been paid. This certification is in addition to
16 the certification for delinquent taxes required by section
17 272.12. In the case of preexisting common interest communities,
18 the recording officer shall accept, file, and record the
19 following instruments, without requiring a certification as to
20 the current or delinquent taxes on any of the units in the
21 common interest community: (i) a declaration subjecting the
22 common interest community to this chapter; (ii) a declaration
23 changing the form of a common interest community pursuant to
24 section 515B.2-123; or (iii) an amendment to or restatement of
25 the declaration, bylaws, or CIC plat. In order for an
26 instrument to be accepted and recorded under the preceding
27 sentence, the instrument must not create or change unit or
28 common area boundaries.

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

31 515B.2-101 [CREATION OF COMMON INTEREST COMMUNITIES.]

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

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

36 (2) A cooperative may be created only by recording a

1 declaration and by recording a conveyance of the real estate
2 subject to that declaration to the association.

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

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

9 (b) Except as otherwise expressly provided in this chapter,
10 the declaration shall be executed by all persons whose interests
11 in the real estate will be conveyed to unit owners or to the
12 association, except vendors under contracts for deed, and by
13 every lessor of a lease the expiration or termination of which
14 will terminate the common interest community. The declaration
15 shall be recorded in every county in which any portion of the
16 common interest community is located. Failure of any party not
17 required to execute a declaration, but having a recorded
18 interest in the common interest community, to join in the
19 declaration shall have no effect on the validity of the common
20 interest community; provided that the party is not bound by the
21 declaration until that party acknowledges the existence of the
22 common interest community in a recorded instrument.

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

33 (d) A project which (i) meets the definition of a "common
34 interest community" in section 515B.1-103(10), (ii) is created
35 after May 31, 1994, and (iii) is not exempt under section
36 515B.1-102(e), is subject to this chapter even if this or other

1 sections of the chapter have not been complied with, and the
2 declarant and all unit owners are bound by all requirements and
3 obligations of this chapter.

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

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

9 515B.2-102 [UNIT BOUNDARIES.]

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

14 (b) In a condominium ~~er~~, a cooperative, or a planned
15 community utilizing a CIC plat complying with section
16 515B.2-110(c), except as the declaration otherwise provides, if
17 the walls, floors, or ceilings of a unit are designated as its
18 boundaries, then the boundaries shall be the interior,
19 unfinished surfaces of the perimeter walls, floors and,
20 ceilings, doors, windows, and door and window frames of the unit.
21 All paneling, tiles, wallpaper, paint, floor covering, and any
22 other finishing materials applied to the interior surfaces of
23 the perimeter walls, floors or ceilings, are a part of the unit,
24 and all other portions of the perimeter walls, floors, ~~er~~
25 ceilings, including-perimeter doors and, windows, and ~~their~~
26 door and window frames, are a part of the common elements.

27 (c) In a planned community, ~~except-as-the-declaration~~
28 ~~otherwise-provides~~ utilizing a CIC plat complying with section
29 515B.2-110(d) (1) and (2), the unit boundaries shall be
30 ~~the boundary-lines-as-designated-on-a-plat-recorded-pursuant-to~~
31 ~~chapter-505-or-on-a-registered-land-survey-filed~~ lot lines
32 designated on a plat recorded pursuant to chapter 508-~~er~~
33 508A 505.

34 (d) If any chute, flue, duct, wire, pipe, conduit, bearing
35 wall, bearing column, or any other fixture serving fewer than
36 all units lies partially within and partially outside of

1 the designated boundaries of a the unit or units served, any
2 portion thereof serving only that unit or units is a limited
3 common element allocated solely to that unit or units, and any
4 portion thereof serving ~~more-than-one-unit-or~~ any portion of the
5 common elements is a part of the common elements.

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

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

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

18 515B.2-104 [DESCRIPTION OF UNITS.]

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

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

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

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

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

13 515B.2-106 [DECLARATION OF FLEXIBLE COMMON INTEREST
14 COMMUNITIES.]

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

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

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

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

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

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

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

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

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

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

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

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

32 515B.2-108 [ALLOCATION OF INTERESTS.]

33 (a) The declaration shall allocate to each unit:

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

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

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

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

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

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

34 (e) The sum of each category of allocated interests
35 allocated at any time to all the units must equal one if stated
36 as a fraction or 100 percent if stated as a percentage. In the

1 event of a discrepancy between an allocated interest and the
2 result derived from application of the pertinent formula, the
3 allocated interest prevails.

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

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

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

19 515B.2-110 [COMMON INTEREST COMMUNITY PLAT (CIC PLAT).]

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

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

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

1 CIC plat ~~for the planned community~~ complies with subsection (c),
2 the number of the common interest community shall be included
3 and the CIC plat shall be recorded at the time of recording of
4 the declaration.

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

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

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

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

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

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

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

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

18 (6) the location and dimensions of all recorded easements
19 within the land included in the common interest community
20 ~~servicing or~~ burdening any portion of the ~~common-interest~~
21 ~~community~~ land;

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

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

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

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

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

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

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

5 (1) ~~satisfy the requirements of~~ comply with chapter 505,
6 ~~508, or 508A, as applicable;~~ and

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

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

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

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

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

31 515B.2-111 [EXPANSION OF FLEXIBLE COMMON INTEREST
32 COMMUNITY.]

33 (a) To add additional real estate pursuant to a right
34 reserved under section ~~515B.2-106(1)~~ 515B.2-106(a)(1), the
35 declarant and all persons whose interests in the additional real
36 estate will be conveyed to unit owners or the association,

1 except vendors under a contract for deed, shall execute and
 2 record ~~an amendment to the~~ a supplemental declaration as
 3 provided in this section. The ~~amendment to the~~ supplemental
 4 declaration shall be titled a "supplemental declaration," shall
 5 be limited to matters authorized by this section, and shall
 6 include:

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

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

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

15 (4) a reallocation of the common element interests, votes
 16 in the association, and common expense liabilities as
 17 applicable, in compliance with the declaration and section
 18 515B.2-108;

19 ~~{3}-describe~~ (5) a description of any limited common
 20 elements formed out of the additional real estate, designating
 21 the unit to which each is allocated to the extent required by
 22 section 515B.2-109;

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

26 ~~{4} (7) contain such other provisions as may be reasonably~~
 27 an attached affidavit attesting to the giving of the notice
 28 required by the association; and subsection (b), if such notice
 29 is required.

30 ~~{5}-conform to the applicable requirements of the~~
 31 ~~declaration and the act.~~

32 (b) If the period of declarant control has terminated, a
 33 declarant shall give notice of its intention to add additional
 34 real estate as follows: to the association (Attention:
 35 president of the association) by a notice given in the manner
 36 provided in section 515B.1-115 not less than 15 days prior to

1 recording the supplemental declaration which adds the additional
2 real estate. A copy of the supplemental declaration shall be
3 attached to the notice. The supplemental declaration may be in
4 proposed form; however, following notice, the supplemental
5 declaration shall not be changed so as to materially and
6 adversely affect the rights of unit owners or the association
7 unless a new 15-day notice is given in accordance with this
8 section.

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

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

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

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

1 common interest community, including the additional real estate.

2 (d) If a supplemental declaration in a planned community
3 creates common elements, then a conveyance of the common
4 elements to the association shall be recorded simultaneously
5 with the supplemental declaration. If a supplemental
6 declaration adds additional real estate to a cooperative, then a
7 conveyance of the additional real estate to the association
8 shall be recorded simultaneously with the supplemental
9 declaration.

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

12 515B.2-112 [SUBDIVISION, COMBINATION, OR CONVERSION OF
13 UNITS.]

14 (a) If the declaration so provides, (i) ~~a-unit-owned-by-a~~
15 ~~person-ether-than-a-declarant~~ one or more units may be
16 subdivided into two or more units or combined into a lesser
17 number of units, or (ii) a unit or units owned exclusively by a
18 declarant may be subdivided, combined, or converted into ~~two~~ one
19 or more units, limited common elements, common elements, or a
20 combination of units, limited common elements or common
21 ~~elements, subject to subsections (b) and (c).~~

22 (b) If a the unit is or units are not owned exclusively
23 by a ~~unit-owner-ether-than-a~~ declarant, the unit owner owners of
24 the units to be combined or subdivided shall prepare cause to be
25 prepared and submit submitted to the association for approval an
26 application for an amendment to the declaration and amended CIC
27 plat, for the purpose of subdividing or combining the unit or
28 units. The application shall contain, at a minimum, a general
29 description of the proposed subdivision or combination, and
30 shall specify in detail the matters required by paragraphs
31 ~~(2)~~ subsection (c)(2) and (3). The basis for disapproval of the
32 application by the association shall be limited to (i) health or
33 safety considerations, (ii) liability considerations for the
34 association and other unit owners, (iii) aesthetic changes to
35 the common elements or another unit, (iv) any material and
36 adverse impact on the common elements or another unit, or (v) a

1 failure to comply with the declaration, this chapter, or
2 governmental laws, ordinances, or regulations. The association
3 shall give written notice of its decision and required changes
4 to the unit owner or owners who made the application. The
5 association shall establish fair and reasonable procedures and
6 time frames for the submission and prompt processing of the
7 applications.

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

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

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

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

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

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

34 (d) If the association determines that the amendment
35 conforms and amended CIC plat conform to the approved
36 application, the declaration, and this chapter, the association

1 shall ~~be obligated to~~ execute the amendment and ~~cooperate in its~~
2 recording cause the amendment and the amended CIC plat to be
3 recorded. ~~The unit owner shall record the amendment and the~~
4 ~~amended CIC plat and deliver a copy of the recorded amendment~~
5 ~~and amended CIC plat to the association.~~ The association may
6 require the unit owners executing the amendment to pay all fees
7 and costs for reviewing, preparing, and recording the amendment
8 and the amended CIC plat, and any other fees or costs incurred
9 by the association in connection therewith.

10 ~~(e)~~ (e) If ~~a~~ the unit is or units are owned
11 exclusively by a declarant, the declarant shall have the
12 authority to unilaterally prepare and record, at its expense, an
13 amendment and an amended CIC plat subdividing, combining, or
14 converting the unit or units. The amendment shall comply
15 ~~with the requirements of subsection (b)(1)~~ subsections (c)(1),
16 (2), (3), and (4), and shall be limited to those provisions
17 necessary to accomplish the subdivision, combination, or
18 conversion unless the consent of unit owners required to amend
19 the declaration is obtained.

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

23 (g) ~~A secured party joins in the amendment pursuant to this~~
24 ~~section, its~~ party's interest and remedies shall be deemed to
25 apply to the unit or units ~~and the common element interests~~ that
26 result from the subdivision or ~~conversion~~ combination of the
27 unit or units in which the secured party held a security
28 interest. If the secured party enforces any remedy, including
29 foreclosure of its lien, against any of the resulting
30 units created, all instruments and notices relating to the
31 foreclosure shall describe the subject property in terms of
32 the amendment and the amended descriptions CIC plat which
33 created the resulting units.

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

36 515B.2-113 [ALTERATIONS OF UNITS.]

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

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

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

28 (d) Notwithstanding any contrary provision of section
29 515B.1-102, subsection (b) applies to all common interest
30 communities subject to this chapter, chapter 515, or 515A. The
31 unit owner's rights under this section may not be waived.

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

35 (f) Subject to the provisions of the declaration and
36 applicable law, a unit owner may, at the unit owner's expense,

1 after acquiring title to an adjoining unit or an adjoining part
2 of an adjoining unit, with the prior written approval of the
3 association and first mortgagees of the affected units, remove
4 or alter any intervening partition or create apertures therein,
5 even if the partition is part of the common elements, if those
6 acts do not impair the structural integrity or mechanical
7 systems or lessen the support of any portion of the common
8 interest community. The adjoining unit owners shall have the
9 exclusive license to use the space occupied by the removed
10 partition, but the use shall not create an easement or vested
11 right. Removal of partitions or creation of apertures under
12 this paragraph is not an alteration of boundaries. The
13 association may require that the owner or owners of units
14 affected replace or restore any removed partition, that the unit
15 owner comply with subsection (a)(i), (ii) and (iii), and that
16 the unit owner pay all fees and costs incurred by the
17 association in connection with the alteration.

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

20 515B.2-118 [AMENDMENT OF DECLARATION.]

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

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

28 (2) The association and certain unit owners, as applicable,
29 may execute amendments under section 515B.2-107, 515B.2-109,
30 515B.2-112, 515B.2-113, 515B.2-114, 515B.2-119, 515B.2-122,
31 515B.2-123, or 515B.2-124.

32 (3) The unanimous written consent of the unit owners is
33 required for any amendment which (i) creates or increases
34 special declarant rights, (ii) increases the number of units,
35 (iii) changes the boundaries of any unit, (iv) changes the
36 allocated interests of a unit, (v) changes common elements to

1 limited common elements or units, (vi) changes the authorized
2 use of a unit from residential to nonresidential, or conversely,
3 or (vii) changes the characterization of the unit owner's
4 interest in a cooperative from real estate to personal property,
5 or conversely; unless the amendment is expressly permitted or
6 required by other provisions of this chapter. Where the
7 amendment involves the conversion of common elements into a unit
8 or units, the title to the unit or units created shall, upon
9 recording of the amendment, vest in the association free and
10 clear of the interests of the unit owners.

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

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

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

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

27 515B.2-119 [TERMINATION OF COMMON INTEREST COMMUNITY.]

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

36 (b) An agreement to terminate shall be evidenced by a

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

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

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

30 (e) The association, on behalf of the unit owners, shall
31 have authority to contract for the sale of real estate in a
32 common interest community pursuant to this section, subject to
33 the required approval. The agreement to terminate shall be
34 deemed to grant to the association a power of attorney coupled
35 with an interest to effect the conveyance of the real estate on
36 behalf of the holders of all interests in the units, including

1 without limitation the power to execute all instruments of
2 conveyance and related instruments. Until the sale has been
3 completed, all instruments in connection with the sale have been
4 executed and the sale proceeds distributed, the association
5 shall continue in existence with all powers it had before
6 termination.

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

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

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

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

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

34 (2) In a condominium or cooperative, or a planned community
35 utilizing a CIC plat complying with section 515B.2-110(c), the
36 underlying legal description of the real estate as set forth in

1 the declaration creating the common interest community, and any
2 amendments thereto, subject to any subsequent conveyance or
3 taking of a fee interest in any part of the property.

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

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

28 (h) The proceeds of any sale of real estate pursuant to
29 subsection (e), together with the assets of the association,
30 shall be held by the association as trustee for unit owners,
31 secured parties and other holders of liens on the units as their
32 interests may appear. Before distributing any proceeds, the
33 association shall have authority to deduct from the proceeds of
34 sale due with respect to the unit (i) unpaid assessments levied
35 by the association with respect to the unit, (ii) unpaid real
36 estate taxes or special assessments due with respect to the

1 unit, and (iii) the share of expenses of sale and winding up of
2 the association's affairs with respect to the unit.

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

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

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

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

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

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

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

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

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

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

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

1 portion from the common interest community.

2 (m) In a condominium or planned community, if a lien or
3 encumbrance against a portion of the real estate comprising the
4 common interest community has priority over the declaration and
5 the lien or encumbrance has not been partially released, the
6 parties foreclosing the lien or encumbrance, upon foreclosure,
7 may record an instrument excluding the real estate subject to
8 that lien or encumbrance from the common interest community.

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

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

15 515B.2-121 [MASTER ASSOCIATIONS.]

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

20 (b) The members of the master association shall be any
21 combination of (i) unit owners of one or more common interest
22 communities, (ii) one or more associations, (iii) one or more
23 master associations, or (iv) owners of real estate or property
24 owners owner's associations not subject to this chapter in
25 combination with any other category of member. An association
26 or its members may be members of an entity created before June
27 1, 1994, which performs functions similar to those performed by
28 a master association regardless of whether the entity is subject
29 to this chapter.

30 (c) A master association shall be governed by a board of
31 directors. Except as expressly prohibited by the master
32 declaration, the master association's articles of incorporation
33 or bylaws, or other provisions of this chapter, the master
34 association board may act in all instances on behalf of the
35 master association. The directors of a master association shall
36 be elected or, if a nonprofit corporation, elected or appointed,

1 in a manner consistent with the requirements of the statute
2 under which the master association is formed and of the master
3 association's articles of incorporation and bylaws, and subject
4 to the following requirements:

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

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

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

27 (i) the voluntary surrender of the right to appoint
28 directors;

29 (ii) the date ten years after the date the master
30 declaration is recorded;

31 (iii) the date, if any, in the articles of incorporation;
32 or

33 (iv) the date when at least 75 percent of the associations
34 ~~that-are-members-of-the-master-association-or-whose-members-are~~
35 ~~members-of-the-master-association-are-controlled-by-their~~
36 ~~members.--An-association's-members-control-the-association-when~~

1 ~~they-have-the-right-to-elect-or-appoint-a-majority-of-the~~
2 ~~association's-voting-directors~~ units and other parcels of real
3 estate which are referred to in subsection (f)(1)(vii) have been
4 conveyed to such persons for occupancy by the persons or their
5 tenants.

6 (4) The term of any director appointed under subsection (3)
7 expires 60 days after the right to appoint directors
8 terminates. The master association's board of directors shall
9 call an annual or special meeting of the master association's
10 members to elect or appoint successor directors within the
11 60-day period.

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

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

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

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

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

6 (i) the name of the master association;

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

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

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

17 (v) a description of the master association's powers. To
18 be-exercised-by-the-master-association-on-behalf-of-its-members
19 and-on-behalf-of-the-members-of-its-members-in-the-case-of
20 members-that-are-common-interest-communities.---The-provisions-of
21 the-master-declaration-with-respect-to-the-grant-and-exercise-of
22 powers-for-common-interest-communities-subject-to-the-master
23 association-shall-be-consistent-with-the-declarations-of-the
24 common-interest-communities-that-delegate-powers-to-the-master
25 association the extent described in the master declaration, a
26 master association has the powers with respect to the master
27 association's members and the property subject to the master
28 declaration that section 515B.3-102 grants to an association
29 with respect to the association's members and the property
30 subject to the declaration. A master association also has the
31 powers delegated to it by an association pursuant to subsection
32 (f)(2) or by a property owner's association not subject to the
33 chapter; provided (i) that the master declaration identifies the
34 powers and authorizes the delegation either expressly or by a
35 grant of authority to the board of the association or property
36 owner's association and (ii) that the master association board

1 has not refused the delegation pursuant to subsection (f)(4).
 2 The provisions of the declarations of the common interest
 3 communities, or the provisions of recorded instruments governing
 4 other property subject to the master declaration, that delegate
 5 powers to the master association shall be consistent with the
 6 provisions of the master declaration that govern the delegation
 7 of the powers;

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

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

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

20 ~~(2) The declaration of a common interest community subject~~
 21 ~~to the master association shall contain provisions delegating,~~
 22 ~~or authorizing the delegation of, powers to the master~~
 23 ~~association in accordance with subsection (f)(3).--The~~
 24 ~~provisions of the declarations relating to the delegation shall~~
 25 ~~be consistent with the provisions of the master declaration~~
 26 ~~granting or reserving these powers to the master association.~~

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

29 (i) delegate any of the powers described in section
 30 515B.3-102 to a the master association; provided, that a
 31 delegation of the powers described in section 515B.3-102(a)(2)
 32 is effective only if expressly stated in the declaration; and

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

36 ~~(4)~~ (3) With respect to any other property subject to a

1 master association, there need not be an instrument other than
2 the master declaration recorded against the property to empower
3 the master association to exercise powers with respect to the
4 property.

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

12 ~~(6)~~ (5) The failure of a declaration, a board or an owner
13 of property subject to a master association to properly delegate
14 some or all of the powers to the master association does not
15 affect the authority of the master association to exercise those
16 and other powers with respect to other common interest
17 communities or owners of properties that are subject to the
18 master association.

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

26 (h) Sections 515B.3-103 (a), (b), and (g), 515B.3-108,
27 515B.3-109, 515B.3-110, and 515B.3-112 shall apply in the
28 conduct of the affairs of a master association. But the rights
29 of voting, notice, and other rights enumerated in those sections
30 apply ~~only~~ to persons who elect or appoint the board of a master
31 association, whether or not those persons are otherwise unit
32 owners within the meaning of this chapter.

33 (i) If so provided in the master declaration, a master
34 association may levy assessments for common expenses of the
35 master association against the property subject to the master
36 declaration, and have and foreclose liens securing the

1 assessments. The liens shall have the same priority against
2 secured parties, shall include the same fees and charges, and
3 may be foreclosed in the same manner, as assessment liens under
4 section 515B.3-116. The master association's lien shall have
5 priority as against the lien of an association or property
6 owner's association subject to the master association,
7 regardless of when the lien arose or was perfected.

8 (1) Master association common expenses shall be allocated
9 among the members of the master association in a fair and
10 equitable manner. If the members are include associations or
11 property owners' owner's associations, then the master
12 assessments may be allocated among and levied against the
13 associations or property owner's associations, or allocated
14 among and levied directly against the units or other parcels of
15 real estate owned by the members of the association or property
16 owner's association. If so provided in the master declaration,
17 master assessments levied against a member association or
18 property owner's association are allocated among and levied
19 against the units or other parcels of real estate owned by the
20 members of the association or property owner's association. If
21 applicable and appropriate, the formulas and principles
22 described in section 515B.2-108, subsections (b), (c), (d), and
23 (e), shall be used in making the allocations. The assessment
24 formulas and procedures described in the declarations of any
25 common interest communities or any instruments governing other
26 real estate subject to the master association shall not conflict
27 with the formulas and procedures described in the master
28 declaration.

29 (2) The master declaration may exempt from liability for
30 all or a portion of master association assessments any person
31 authorized by subsection (c)(3) to appoint the members of the
32 master association board ~~for-master-association-common-expenses,~~
33 or any other person, and exempt any unit or other parcel of real
34 estate owned by the person from a lien for such ~~common-expenses~~
35 assessments, until a dwelling building constituting or located
36 within the unit or other parcel of real estate is substantially

1 completed. Substantial completion shall be evidenced by a
2 certificate of occupancy in a jurisdiction that issues that
3 certificate.

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

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

11 515B.2-123 [CHANGE OF FORM OF COMMON INTEREST COMMUNITY.]

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

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

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

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

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

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

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

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

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

32 515B.2-124 [SEVERANCE OF COMMON INTEREST COMMUNITY.]

33 (a) Unless the declaration provides otherwise, a part of a
34 common interest community containing one or more units, with or
35 without common elements, may be severed from the common interest
36 community, subject to the requirements of this section. Subject

1 to any additional requirements contained in the declaration, the
2 severance shall be approved in a written severance
3 agreement ~~satisfying the requirements of~~ complying with this
4 section, executed by:

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

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

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

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

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

31 (d) The severance agreement shall:

32 (1) Approve an amendment to the declaration complying with
33 this chapter, in substantially the same form to be recorded,
34 which, at a minimum (i) legally describes the real estate
35 constituting the remaining common interest community and the
36 real estate being severed, (ii) restates the number of units in

1 the remaining common interest community, (iii) reallocates the
2 interests of the unit owners in the remaining common interest
3 community among the remaining units in accordance with the
4 allocation formula set forth in the declaration, and (iv)
5 recites any easements to which the severed portion of the common
6 interest community remains subject.

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

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

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

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

34 (e) The severance agreement or a memorandum of it shall be
35 recorded in every county in which a part of the common interest
36 community is located. The recording of the severance agreement

1 or memorandum of it shall, from the date of recording,
2 constitute notice to all persons subsequently acquiring an
3 interest in the common interest community that the common
4 interest community is being severed, and that those persons
5 acquire their interests subject to the terms and conditions
6 contained in the severance agreement and the amendment to the
7 declaration.

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

16 (g) If the unit owners whose units are being severed from
17 the common interest community intend to form a new common
18 interest community, then said unit owners shall unanimously, by
19 at least 80 percent of the votes allocated by the existing
20 declaration to said units, approve a new declaration, articles
21 of incorporation and bylaws to govern the new common interest
22 community no later than 60 days before the effective date of the
23 severance. The new declaration ~~creating-the-new-common-interest~~
24 ~~community~~ shall be recorded simultaneously with the amendment to
25 the existing declaration. No later than 30 days ~~before~~ after
26 the effective date of the severance agreement, the unit-owners
27 ~~shall-cause~~ articles of incorporation creating the
28 association governing intended to govern the new common interest
29 community ~~to-be-created-by-filing-the-articles-of-incorporation~~
30 ~~of-the-association~~ shall be filed with the secretary of state
31 and promptly thereafter the unit owners whose units are being
32 severed shall elect a board of directors to act on behalf of the
33 new association. The board of directors of the new association
34 shall ~~coordinate-the-completion-of-the-severance~~ cooperate with
35 the board of directors of the existing association to complete
36 the severance. The existing association shall retain all

1 authority to act on behalf of the common interest community
2 until the amendment to the existing declaration ~~is~~ and the new
3 declaration are recorded.

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

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

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

22 (3) The recording officer for each county in which the
23 common interest community is located shall index the property
24 located in that county in its records under the legal
25 descriptions required by this subsection as of the date of
26 recording of the amendment to the declaration. In the case of
27 registered property, the registrar of titles shall cancel the
28 existing certificates of title for the severed part of the
29 common interest community and issue certificates of title for
30 the property using the legal descriptions required by this
31 subsection.

32 (i) In a condominium or planned community, if the severed
33 part of the common interest community is not to be reconstituted
34 as a new common interest community following severance, title to
35 the common elements and, in a common interest community in which
36 all units have upper and lower boundaries described in the

1 declaration title to all the real estate in the severed part of
2 the common interest community, vests in the unit owners of the
3 units being severed, upon severance, as tenants in common in
4 proportion to their respective allocated interests in the
5 declaration, and liens on the units shift accordingly. While
6 the tenancy in common exists, each unit owner and the unit
7 owner's successors in interest have an exclusive right to
8 occupancy of the portion of the real estate that formerly
9 constituted the unit, and a nonexclusive easement across, over
10 and under any common elements contained in the severed portion
11 of the common interest community for enjoyment, access,
12 utilities, communication services, and other essential services,
13 as applicable.

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

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

21 515B.3-101 [ORGANIZATION OF UNIT OWNERS' ASSOCIATION.]

22 A common interest community shall be administered by ~~a-unit~~
23 ~~owners~~ an association. The ~~unit-owners~~ association shall be
24 incorporated no later than the date the common interest
25 community is created. The membership of the association at all
26 times consists exclusively of all unit owners or, following
27 termination of the common interest community, of all former unit
28 owners entitled to distributions of proceeds under section
29 515B.2-119 or their heirs, successors, or assigns. The
30 association shall be organized as a Minnesota profit or
31 nonprofit corporation, or may, in the case of a cooperative, be
32 organized under chapter 308A. In the event of a conflict
33 between this chapter and any other chapter under which the
34 association is incorporated, this chapter shall control.

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

1 515B.3-102 [POWERS OF UNIT OWNERS' ASSOCIATION.]

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

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

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

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

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

33 (5) make contracts and incur liabilities;

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

36 (7) cause improvements to be made as a part of the common

1 elements, and, in the case of a cooperative, the units;

2 (8) acquire, hold, encumber, and convey in its own name any
3 right, title, or interest to real estate or personal property,
4 but (i) common elements in a condominium or planned community
5 may be conveyed or subjected to a security interest only
6 pursuant to section 515B.3-112, or (ii) part of a cooperative
7 may be conveyed, or all or part of a cooperative may be
8 subjected to a security interest, only pursuant to section
9 515B.3-112;

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

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

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

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

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

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

36 (15) exercise any other powers conferred by law, or by the

1 declaration, articles of incorporation or bylaws; and

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

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

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

11 515B.3-103 [~~DUTY-OF~~ BOARD OF DIRECTORS, OFFICERS DURING,
12 AFTER AND DECLARANT CONTROL.]

13 (a) An association shall be governed by a board of
14 directors. Except as expressly prohibited by the declaration,
15 the articles of incorporation, bylaws, subsection (b), or other
16 provisions of this chapter, the board may act in all instances
17 on behalf of the association. In the performance of their
18 duties, the officers and directors are required to exercise (i)
19 if appointed by the declarant, the care required of fiduciaries
20 of the unit owners and (ii) if elected by the unit owners, the
21 care required of a director by section 302A.251 or 317A.251, as
22 applicable.

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

30 ~~Subject to subsection (d),~~ The declaration may provide
31 for a period of declarant control of the association, during
32 which a declarant, or persons designated by the declarant, may
33 appoint and remove the officers and directors of the
34 association. The maximum period of declarant control may extend
35 from begins on the date of ~~the first conveyance of a unit to a~~
36 ~~unit owner other than a declarant for a period not~~

1 exceeding creation of the common interest community and
2 terminates upon the earliest of the following events: (i) five
3 years after the date of the first conveyance of a unit to a unit
4 owner other than a declarant in the case of a flexible common
5 interest community or three years in the case of any other
6 common interest community.---Regardless-of-any-longer-period
7 provided-in-the-declaration-or-elsewhere,-a-period-of-declarant
8 control-shall-terminate-upon-the-earlier-of-(i)-surrender-of
9 control-by-the-declarant-or-(ii)-60-days-after, (ii) the
10 declarant's voluntary surrender of control by giving written
11 notice to the unit owners pursuant to section 515B.1-115, or
12 (iii) the conveyance of 75 percent of the units to unit owners
13 other than a declarant.

14 (d) Net-later-than-60-days-after-conveyance-of The board
15 shall cause a meeting of the unit owners to be called, as
16 follows:

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

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

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

36 (1) A majority of the directors shall be unit owners other

1 than a declarant or an affiliate of a declarant, or a natural
2 person designated by a unit owner that is not a natural person.
3 The remaining directors need not be unit owners unless required
4 by the articles of incorporation or bylaws.

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

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

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

24 (f) In determining whether the period of declarant control
25 has terminated under subsection (c), or whether unit owners
26 other than a declarant are entitled to elect members of the
27 board of directors under subsection (d), the percentage of the
28 ~~units which has been conveyed shall be calculated based upon the~~
29 ~~assumption that all units which the declarant has built or~~
30 ~~reserved the right to build in the declaration are included in~~
31 the common interest community using as a numerator the number of
32 units conveyed and as a denominator the number of units subject
33 to the declaration plus the number of units which the declarant
34 is authorized by the declaration to create on any additional
35 real estate. The percentages referred to in subsections (c) and
36 (d) shall be calculated without reference to units that are

1 auxiliary to other units, such as garage units or storage
 2 units. A person shall not use a master association or other
 3 device to evade the requirements of this section.

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

- 16 (1) personnel matters;
- 17 (2) pending or potential litigation, arbitration or other
 18 potentially adversarial proceedings, between unit owners,
 19 between the board or association and unit owners, or other
 20 matters in which any unit owner may have an adversarial
 21 interest, if the board determines that closing the meeting is
 22 necessary to discuss strategy or to otherwise protect the
 23 position of the board or association or the privacy of a unit
 24 owner or occupant of a unit; or
- 25 (3) criminal activity arising within the common interest
 26 community if the board determines that closing the meeting is
 27 necessary to protect the privacy of the victim or that opening
 28 the meeting would jeopardize investigation of the activity.

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

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

1 515B.3-105 [TERMINATION OF DECLARANT'S CONTRACTS, LEASES.]

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

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

26 (c) Termination shall be upon no less than 90 days' notice.
27 Notice of termination shall be given by the association or
28 master association, as applicable, in accordance with section
29 515B.1-115; provided, that notice shall be effective only if
30 given within two years following the termination of the period
31 of declarant control or the suspension period described in
32 section 515B.2-121, subsection (c), paragraph (3), as applicable.

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

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

36 (2) in the case of a cooperative, a mortgage or contract

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

8 (3) an agreement between a declarant or an affiliate of a
9 declarant, or a person having authority pursuant to section
10 515B.2-121(c)(3) to appoint the directors of the master
11 association, and any governmental entity, if such agreement is
12 necessary to obtain governmental approvals, provide financing
13 under any type of government program, or provide for
14 governmentally required access, conservation, drainage, or
15 utilities.

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

18 515B.3-106 [BYLAWS; ANNUAL REPORT.]

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

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

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

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

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

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

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

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

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

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

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

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

17 515B.3-110 [VOTING; PROXIES.]

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

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

33 (c) The entire vote on any single issue (except the
34 election of directors), may be by mailed ballots, subject to (i)
35 any prohibition or requirement contained in the articles of
36 incorporation, bylaws, or declaration and (ii) any requirements

1 of the statute under which the association is created. Such a
2 vote shall have the force and effect of a vote taken at a
3 meeting; provided, that the total votes cast are at least equal
4 to the votes required for a quorum. The board shall set a
5 voting period within which the ballots must be returned, which
6 period shall be not less than ten nor more than 30 days after
7 the date of mailing or hand delivery of the ballots to the
8 owners. The board of directors shall provide written notice of
9 the results of the vote to the members within 30 days after the
10 expiration of the voting period. All requirements in this
11 chapter, the declaration or the bylaws for a meeting of the
12 members, or being present in person, shall be deemed satisfied
13 by a vote taken by mail in compliance with the requirements of
14 this section.

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

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

1 vote.

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

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

6 515B.3-112 [CONVEYANCE OR ENCUMBRANCE OF, OR CREATION OF
7 SECURITY INTERESTS IN, COMMON ELEMENTS.]

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

20 (b) In a cooperative, unless the declaration provides
21 otherwise, part of a cooperative may be conveyed, or all or a
22 part subjected to a security interest, by the association if
23 persons entitled to cast at least 67 percent of the votes in the
24 association, including 67 percent of the votes allocated to
25 units in which the declarant has no interest, or any larger
26 percentage the declaration specifies, approves that action in
27 writing or at a meeting. If fewer than all of the units or
28 limited common elements are to be conveyed or subjected to a
29 security interest, then all unit owners of those units, or the
30 units to which those limited common elements are allocated, must
31 agree in order to convey those units or limited common elements
32 or subject them to a security interest. The declaration may
33 specify a smaller percentage only if all of the units are
34 restricted to nonresidential use. Any purported conveyance or
35 other voluntary transfer of an entire cooperative is void,
36 unless made pursuant to section 515B.2-119.

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

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

23 (e) In the case of a conveyance involving a condominium, a
24 planned community utilizing a CIC plat complying with section
25 515B.2-110(c), or a cooperative in which the unit owners'
26 interests are characterized as real estate, the association
27 shall record, simultaneously with the recording of the
28 instrument of conveyance, an amended CIC plat showing the real
29 estate constituting the common interest community exclusive of
30 the real estate conveyed. In all common interest communities,
31 upon recording of the instrument of conveyance, the declaration,
32 and all rights and obligations arising therefrom, shall be
33 deemed released and terminated as to the real estate conveyed.

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

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

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

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

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

12 515B.3-113 [INSURANCE.]

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

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

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

1 against other insured parties.

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

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

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

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

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

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

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

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

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

27 (g) An insurer that has issued an insurance policy under
28 this section shall issue certificates or memoranda of insurance,
29 upon request, to any unit owner or secured party. The insurance
30 may not be canceled until 60 days after notice of the proposed
31 cancellation has been mailed to the association, each unit owner
32 and each secured party for an obligation to whom certificates of
33 insurance have been issued.

34 (h) Any portion of the common interest community which is
35 damaged or destroyed as the result of a loss covered by the
36 association's insurance shall be promptly repaired or replaced

1 by the association unless (i) the common interest community is
2 terminated and the association votes not to repair or replace
3 all or part thereof, (ii) repair or replacement would be illegal
4 under any state or local health or safety statute or ordinance,
5 or (iii) 80 percent of the unit owners, including every unit
6 owner and holder of a first mortgage on a unit or assigned
7 limited common element which will not be rebuilt, vote not to
8 rebuild. Subject to subsection (b), the cost of repair or
9 replacement of the common elements in excess of insurance
10 proceeds and reserves shall be paid as a common expense, and the
11 cost of repair of a unit in excess of insurance proceeds shall
12 be paid by the respective unit owner.

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

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

1 proceeds pursuant to section 515B.2-119.

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

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

7 515B.3-114 [RESERVES; SURPLUS FUNDS.]

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

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

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

23 515B.3-115 [ASSESSMENTS FOR COMMON EXPENSES.]

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

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

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

34 (i) If the declaration so provides, a declarant's
35 liability, and the assessment lien, for the common expense
36 assessments, exclusive of replacement reserves, on any unit

1 owned by the declarant may be limited to 25 percent or more of
2 any assessment, exclusive of replacement reserves, until the
3 unit or any building located in the unit is substantially
4 completed. Substantial completion shall be evidenced by a
5 certificate of occupancy in any jurisdiction that issues the
6 certificate.

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

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

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

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

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

5 (e) Unless otherwise required by the declaration:

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

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

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

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

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

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

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

34 (h) Subject to any shorter period specified by the
35 declaration or bylaws, if any installment of an assessment
36 becomes more than 60 days past due, then the association may,

1 upon ten days' written notice to the unit owner, declare the
 2 entire amount of the assessment immediately due and payable in
 3 full.

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

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

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

13 515B.3-116 [LIEN FOR ASSESSMENTS.]

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

23 (b) A lien under this section is prior to all other liens
 24 and encumbrances on a unit except (i) liens and encumbrances
 25 recorded before the declaration and, in a cooperative, liens and
 26 encumbrances which the association creates, assumes, or takes
 27 subject to, (ii) any first mortgage encumbering the fee simple
 28 interest in the unit, or, in a cooperative, any first security
 29 interest encumbering only the unit owner's interest in the unit,
 30 and (iii) liens for real estate taxes and other governmental
 31 assessments or charges against the unit, and (iv) a master
 32 association lien under section 515B.2-121(i). If a first
 33 mortgage on a unit is foreclosed, the first mortgage was
 34 recorded after June 1, 1994, and no owner redeems during the
 35 owner's period of redemption provided by chapter 580, 581, or
 36 582, the holder of the sheriff's certificate of sale from the

1 foreclosure of the first mortgage shall take title to the unit
2 subject to a lien in favor of the association for unpaid
3 assessments for common expenses levied pursuant to section
4 515B.3-115(a), (e)(1) to (3), (f), and (i) which became due,
5 without acceleration, during the six months immediately
6 preceding the first day following the end of the owner's period
7 of redemption. If a first security interest encumbering a unit
8 owner's interest in a cooperative unit which is personal
9 property is foreclosed, the secured party or the purchaser at
10 the sale shall take title to the unit subject to unpaid
11 assessments for common expenses levied pursuant to section
12 515B.3-115(a), (e)(1) to (3), (f), and (i) which became due,
13 without acceleration, during the six months immediately
14 preceding the first day following either the disposition date
15 pursuant to section 336.9-610 or the date on which the
16 obligation of the unit owner is discharged pursuant to section
17 336.9-622. This subsection shall not affect the priority of
18 mechanics' liens.

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

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

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

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

35 (g) The association shall furnish to a unit owner or the
36 owner's authorized agent upon written request of the unit owner

1 or the authorized agent a statement setting forth the amount of
2 unpaid assessments currently levied against the owner's unit.
3 If the unit owner's interest is real estate, the statement shall
4 be in recordable form. The statement shall be furnished within
5 ten business days after receipt of the request and is binding on
6 the association and every unit owner.

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

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

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

17 (3) In a cooperative whose unit owners' interests in the
18 units are personal property, the association's lien shall be
19 foreclosed in a like manner as a security interest under article
20 9 of chapter 336. In any disposition pursuant to section
21 336.9-610 or retention pursuant to sections 336.9-620 to
22 336.9-622, the rights of the parties shall be the same as those
23 provided by law, except (i) notice of sale, disposition, or
24 retention shall be served on the unit owner 90 days prior to
25 sale, disposition, or retention, (ii) the association shall be
26 entitled to its reasonable costs and attorney fees not exceeding
27 the amount provided by section 582.01, subdivision 1a, (iii) the
28 amount of the association's lien shall be deemed to be adequate
29 consideration for the unit subject to disposition or retention,
30 notwithstanding the value of the unit, and (iv) the notice of
31 sale, disposition, or retention shall contain the following
32 statement in capital letters with the name of the association or
33 secured party filled in:

34 "THIS IS TO INFORM YOU THAT BY THIS NOTICE (fill in name of
35 association or secured party) HAS BEGUN PROCEEDINGS UNDER
36 MINNESOTA STATUTES, CHAPTER 515B, TO FORECLOSE ON YOUR INTEREST

1 IN YOUR UNIT FOR THE REASON SPECIFIED IN THIS NOTICE. YOUR
2 INTEREST IN YOUR UNIT WILL TERMINATE 90 DAYS AFTER SERVICE OF
3 THIS NOTICE ON YOU UNLESS BEFORE THEN:

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

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

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

9 (3) \$500 TO APPLY TO ATTORNEYS FEES ACTUALLY EXPENDED OR
10 INCURRED; PLUS

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

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

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

27 (4) In any foreclosure pursuant to chapter 580, 581, or
28 582, the rights of the parties shall be the same as those
29 provided by law, except (i) the period of redemption for unit
30 owners shall be six months from the date of sale or a lesser
31 period authorized by law, (ii) in a foreclosure by advertisement
32 under chapter 580, the foreclosing party shall be entitled to
33 costs and disbursements of foreclosure and attorneys fees
34 authorized by the declaration or bylaws, notwithstanding the
35 provisions of section 582.01, subdivisions 1 and 1a, (iii) in a
36 foreclosure by action under chapter 581, the foreclosing party

1 shall be entitled to costs and disbursements of foreclosure and
2 attorneys fees as the court shall determine, and (iv) the amount
3 of the association's lien shall be deemed to be adequate
4 consideration for the unit subject to foreclosure,
5 notwithstanding the value of the unit.

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

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

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

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

22 515B.3-117 [OTHER LIENS.]

23 (a) Except in a cooperative and except as otherwise
24 provided in this chapter or in a security instrument, an
25 individual unit owner may have the unit owner's unit released
26 from a lien if the unit owner pays the lienholder the portion of
27 the amount which the lien secures that is attributable to the
28 unit. Upon the receipt of payment, the lienholder shall
29 promptly deliver to the unit owner a recordable partial
30 satisfaction and release of lien releasing the unit from the
31 lien. The release shall be deemed to include a release of any
32 rights in the common elements appurtenant to the unit. The
33 portion of the amount which a lien secures that is attributable
34 to the unit shall be equal to the total amount which the lien
35 secures multiplied by a percentage calculated by dividing the
36 common expense liability attributable to the unit by the common

1 expense liability attributable to all units against which the
2 lien has been recorded, or in the case of a lien under
3 subsection (b), the units against which the lien is permitted or
4 required to be recorded. At the request of a lien claimant or
5 unit owners, the association shall provide a written statement
6 of the percentage of common expense liability attributable to
7 all units. After a unit owner's payment pursuant to this
8 section, the association may not assess the unit for any common
9 expense incurred thereafter in connection with the satisfaction
10 or defense against the lien.

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

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

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

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

11 515B.3-120 [DECLARANT DUTIES; TURNOVER OF RECORDS.]

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

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

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

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

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

27 (b) At such time as any period of declarant control
28 terminates, declarant shall cause to be delivered to the board
29 elected by the unit owners exclusive control of all funds of the
30 association, all contracts and agreements ~~to~~ which are binding
31 on the association was-or-is-a-party, all corporate records of
32 the association including financial records, copies of all CIC
33 plats and supplementary CIC plats, personal property owned or
34 represented to be owned by the association, assignments of all
35 declarant's rights and interests under the warranties if not in
36 the name of the association, and, to the extent they are in the

1 control or possession of the declarant, copies of all plans and
2 specifications in its control or possession relating to the
3 ~~common-interest-community~~ buildings and related
4 improvements which are part of the common elements, and
5 operating manuals and warranty materials relating to any
6 equipment or personal property utilized in the operation of the
7 common interest community. The declarant's obligation to turn
8 over the foregoing items shall continue to include additional
9 new or changed items in its possession or control.

10 (c) A ~~declarant-in-control~~ person entitled to appoint the
11 directors of a master association pursuant to section
12 515B.2-121(c)(3), and the master association's officers and
13 directors, shall be subject to the same duties and obligations
14 with respect to the master association as are described in
15 subsections (a), and (b) and (e), to the extent
16 applicable. ~~The period of declarant control of the master~~
17 ~~association shall terminate as provided in section~~
18 ~~515B.2-121(f)~~. A master association may not be used to
19 circumvent or avoid any obligation or restriction imposed on a
20 declarant or its affiliates by this chapter.

21 Sec. 33. Minnesota Statutes 2004, section 515B.4-101, is
22 amended to read:

23 515B.4-101 [APPLICABILITY; DELIVERY OF DISCLOSURE
24 STATEMENT.]

25 (a) Sections 515B.4-101 through 515B.4-118 apply to all
26 units subject to this chapter, except as provided in subsection
27 (c) or as modified or waived by written agreement of purchasers
28 of a unit which is restricted to nonresidential use.

29 (b) Subject to subsections (a) and (c), a declarant who
30 offers a unit to a purchaser shall deliver to the purchaser a
31 current disclosure statement which complies with the
32 requirements of section 515B.4-102. The disclosure statement
33 shall include any material amendments to the disclosure
34 statement made prior to the conveyance of the unit to the
35 purchaser. The declarant shall be liable to the purchaser to
36 whom it delivered the disclosure statement for any false or

1 misleading statement set forth therein or for any omission of a
2 material fact therefrom.

3 (c) Neither a disclosure statement nor a resale disclosure
4 certificate need be prepared or delivered in the case of:

5 (1) a gratuitous transfer;

6 (2) a transfer pursuant to a court order;

7 (3) a transfer to a government or governmental agency;

8 (4) a transfer to a secured party by foreclosure or deed in
9 lieu of foreclosure;

10 (5) an option to purchase a unit, until exercised;

11 (6) a transfer to a person who "controls" or is "controlled
12 by," the grantor as those terms are defined with respect to a
13 declarant under section 515B.1-103(2);

14 (7) a transfer by inheritance;

15 (8) a transfer of special declarant rights under section
16 515B.3-104; or

17 (9) a transfer in connection with a change of form of
18 common interest community under section 515B.2-123.

19 (d) A purchase agreement for a unit shall contain the
20 following notice: "The following notice is required by
21 Minnesota Statutes. The purchaser is entitled to receive a
22 disclosure statement or resale disclosure certificate, as
23 applicable. The disclosure statement or resale disclosure
24 certificate contains important information regarding the common
25 interest community and the purchaser's cancellation rights."

26 (e) A purchase agreement for the sale, to the initial
27 occupant, of a platted lot or other parcel of real estate (i)
28 which is subject to a master declaration, (ii) which is intended
29 for residential occupancy, and (iii) which does not and is not
30 intended to constitute a unit, shall contain the following
31 notice: "The following notice is required by Minnesota
32 Statutes: The real estate to be conveyed under this agreement
33 is or will be subject to a master association as defined in
34 Minnesota Statutes, chapter 515B. The master association is
35 obligated to provide to the purchaser, pursuant to Minnesota
36 Statutes, section 515B.4-102(c), upon the purchaser's request, a

1 statement containing the information required by Minnesota
2 Statutes, section 515B.4-102(a)(20), with respect to the master
3 association, prior to the time that the purchaser signs a
4 purchase agreement for the real estate. The statement contains
5 important information regarding the master association and the
6 purchaser's obligations thereunder." A claim by a purchaser
7 based upon a failure to include the foregoing notice in a
8 purchase agreement:

9 (1) shall be limited to legal, and not equitable, remedies;

10 (2) shall be barred unless it is commenced within the time
11 period specified in section 515B.4-115(a); or

12 (3) may be waived by a separate written document signed by
13 the seller and purchaser.

14 Sec. 34. Minnesota Statutes 2004, section 515B.4-102, is
15 amended to read:

16 515B.4-102 [DISCLOSURE STATEMENT; GENERAL PROVISIONS.]

17 (a) A disclosure statement shall fully and accurately
18 disclose:

19 (1) the name and, if available, the number of the common
20 interest community;

21 (2) the name and principal address of the declarant;

22 (3) the number of units which the declarant has the right
23 to include in the common interest community and a statement that
24 the common interest community is either a condominium,
25 cooperative, or planned community;

26 (4) a general description of the common interest community,
27 including, at a minimum, (i) the number of buildings, (ii) the
28 number of dwellings per building, (iii) the type of
29 construction, (iv) whether the common interest community
30 involves new construction or rehabilitation, (v) whether any
31 building was wholly or partially occupied, for any purpose,
32 before it was added to the common interest community and the
33 nature of the occupancy, and (vi) a general description of any
34 roads, trails, or utilities that are located on the common
35 elements and that the association or a master association will
36 be required to maintain;

1 (5) declarant's schedule of commencement and completion of
2 construction of any buildings and other improvements that the
3 declarant is obligated to build pursuant to section 515B.4-117;

4 (6) any expenses or services, not reflected in the budget,
5 that the declarant pays or provides, which may become a common
6 expense; the projected common expense attributable to each of
7 those expenses or services; and an explanation of declarant's
8 limited assessment liability under section 515B.3-115,
9 subsection (b);

10 (7) any initial or special fee due from the purchaser to
11 the declarant or the association at closing, together with a
12 description of the purpose and method of calculating the fee;

13 (8) identification of any liens, defects, or encumbrances
14 which will continue to affect the title to a unit or to any real
15 property owned by the association after the contemplated
16 conveyance;

17 (9) a description of any financing offered or arranged by
18 the declarant;

19 (10) a statement as to whether application has been made
20 for any project approvals for the common interest community from
21 the Federal National Mortgage Association (FNMA), Federal Home
22 Loan Mortgage Corporation (FHLMC), Department of Housing and
23 Urban Development (HUD) or Department of Veterans Affairs (VA),
24 and which, if any, such final approvals have been received;

25 (11) the terms of any warranties provided by the declarant,
26 including copies of ~~chapter-327A,~~ and sections 515B.4-112
27 through 515B.4-115, and any other applicable statutory
28 warranties, and a statement of any limitations on the
29 enforcement of the applicable warranties or on damages;

30 (12) a statement that: (i) within ten days after the
31 receipt of a disclosure statement, a purchaser may cancel any
32 contract for the purchase of a unit from a declarant; provided,
33 that the right to cancel terminates upon the purchaser's
34 voluntary acceptance of a conveyance of the unit from the
35 declarant or by the purchaser agreeing to modify or waive the
36 right to cancel in the manner provided by section 515B.4-106,

1 paragraph (a); (ii) if a purchaser receives a disclosure
2 statement more than ten days before signing a purchase
3 agreement, the purchaser cannot cancel the purchase agreement;
4 and (iii) if a declarant obligated to deliver a disclosure
5 statement fails to deliver a disclosure statement which
6 substantially complies with this chapter to a purchaser to whom
7 a unit is conveyed, the declarant shall be liable to the
8 purchaser as provided in section 515B.4-106(d);

9 (13) a statement disclosing to the extent of the
10 declarant's or an affiliate of a declarant's actual knowledge,
11 after reasonable inquiry, any unsatisfied judgments or lawsuits
12 to which the association is a party, and the status of those
13 lawsuits which are material to the common interest community or
14 the unit being purchased;

15 (14) a statement (i) describing the conditions under which
16 earnest money will be held in and disbursed from the escrow
17 account, as set forth in section 515B.4-109, (ii) that the
18 earnest money will be returned to the purchaser if the purchaser
19 cancels the contract pursuant to section 515B.4-106, and (iii)
20 setting forth the name and address of the escrow agent;

21 (15) a detailed description of the insurance coverage
22 provided by the association for the benefit of unit owners,
23 including a statement as to which, if any, of the items referred
24 to in section 515B.3-113, subsection (b), are insured by the
25 association;

26 (16) any current or expected fees or charges, other than
27 assessments for common expenses, to be paid by unit owners for
28 the use of the common elements or any other improvements or
29 facilities;

30 (17) the financial arrangements, including any
31 contingencies, which have been made to provide for completion of
32 all improvements that the declarant is obligated to build
33 pursuant to section 515B.4-118, or a statement that no such
34 arrangements have been made;

35 (18) in a cooperative: (i) whether the unit owners will be
36 entitled for federal and state tax purposes, to deduct payments

1 made by the association for real estate taxes and interest paid
2 to the holder of a security interest encumbering the
3 cooperative; and (ii) a statement as to the effect on the unit
4 owners if the association fails to pay real estate taxes or
5 payments due the holder of a security interest encumbering the
6 cooperative; and (iii) the principal amount and a general
7 description of the terms of any blanket mortgage, contract for
8 deed, or other blanket security instrument encumbering the
9 cooperative property;

10 (19) a statement: (i) that real estate taxes for the unit
11 or any real property owned by the association are not delinquent
12 or, if there are delinquent real estate taxes, describing the
13 property for which the taxes are delinquent, stating the amount
14 of the delinquent taxes, interest and penalties, and stating the
15 years for which taxes are delinquent, and (ii) setting forth the
16 amount of real estate taxes, including the amount of any special
17 assessment certified for payment with the real estate taxes, due
18 and payable with respect to the unit in the year in which the
19 disclosure statement is given, if real estate taxes have been
20 separately assessed against the unit;

21 (20) if the association or the purchaser of the unit will
22 be a member of a master association, a statement to that effect,
23 and all of the following information with respect to the master
24 association: (i) a copy of the master declaration, ~~if-any~~
25 ~~(other-than-any-EFE-plate)~~; the articles of incorporation,
26 bylaws, and rules and regulations for the master association,
27 together with any amendments thereto; (ii) the name, address and
28 general description of the master association, including a
29 general description of any other association, unit owners, or
30 other persons which are or may become members; (iii) a
31 description of any nonresidential use permitted on any property
32 subject to the master association; (iv) a statement as to the
33 estimated maximum number of associations, unit owners or other
34 persons which may become members of the master association, and
35 the degree and period of control of the master association by a
36 declarant or other person; (v) a description of any facilities

1 intended for the benefit of the members of the master
2 association and not located on property owned or controlled by a
3 member or the master association; (vi) the financial
4 arrangements, including any contingencies, which have been made
5 to provide for completion of the facilities referred to in
6 subsection (v), or a statement that no arrangements have been
7 made; (vii) any current balance sheet of the master association
8 and a projected or current annual budget, as applicable, which
9 budget shall include with respect to the master association
10 those items in paragraph (23), clauses (i) through ~~(iv)~~ (iii),
11 and the projected monthly common expense assessment for each
12 type of unit, lot, or other parcel of real estate which is or is
13 planned to be subject to assessment; (viii) a description of any
14 expenses or services not reflected in the budget, paid for or
15 provided by a declarant or a person executing the master
16 declaration, which may become an expense of the master
17 association in the future; (ix) a description of any powers
18 delegated to and accepted by the master association pursuant to
19 section 515B.2-121(f)(2); (x) identification of any liens,
20 defects or encumbrances that will continue to affect title to
21 property owned or operated by the master association for the
22 benefit of its members; (xi) the terms of any warranties
23 provided by any person for construction of facilities in which
24 the members of the master association have or may have an
25 interest, and any known defects in the facilities which would
26 violate the standards described in section 515B.4-112(b); (xii)
27 a statement disclosing, ~~to the extent of the declarant's~~
28 ~~knowledge~~, after inquiry of the master association, any
29 unsatisfied judgments or lawsuits to which the master
30 association is a party, and the status of those lawsuits which
31 are material to the master association; (xiii) a description of
32 any insurance coverage provided for the benefit of its members
33 by the master association; and (xiv) any current or expected
34 fees or charges, other than assessments by the master
35 association, to be paid by members of the master association for
36 the use of any facilities intended for the benefit of the

1 members;

2 (21) a statement as to whether the unit will be
3 substantially completed at the time of conveyance to a
4 purchaser, and if not substantially completed, who is
5 responsible to complete and pay for the construction of the
6 unit;

7 (22) a copy of the declaration and any amendments thereto,
8 (exclusive of the CIC plat), any other recorded covenants,
9 conditions restrictions, and reservations affecting the common
10 interest community; the articles of incorporation, bylaws and
11 any rules or regulations of the association; any agreement
12 excluding or modifying any implied warranties; any agreement
13 reducing the statute of limitations for the enforcement of
14 warranties; any contracts or leases to be signed by purchaser at
15 closing; and a brief narrative description of any (i) contracts
16 or leases that are or may be subject to cancellation by the
17 association under section 515B.3-105 and (ii) any material
18 agreements entered into between the declarant and a governmental
19 entity that affect the common interest community; and

20 (23) ~~any-current~~ a balance sheet for the association,
21 current within 90 days; a projected annual budget for the
22 association for-the-year-in-which-the-first-unit-is-conveyed-to
23 a-purchaser,-and-thereafter-the-current-annual-budget-of-the
24 asseeiation; and a statement identifying the party responsible
25 for the preparation of the budget. The budget shall assume that
26 all units intended to be included in the common interest
27 community, based upon the declarant's good faith estimate, have
28 been subjected to the declaration; provided, that additional
29 budget portrayals based upon a lesser number of units are
30 permitted. The budget shall include, without limitation: (i) a
31 statement of the amount included in the budget as a reserve for
32 ~~maintenance,-repair-and~~ replacement; (ii) a statement of any
33 other reserves; (iii) the projected common expense for each
34 category of expenditures for the association; and (iv) the
35 projected monthly common expense assessment for each type of
36 unit; and (v) a footnote or other reference to those components

1 of the common interest community the maintenance, repair, or
2 replacement of which the budget assumes will be funded by
3 assessments under section 515B.3-115(e) rather than by
4 assessments included in the association's annual budget, and a
5 statement referencing section 515B.3-115(e)(1) or (2) as the
6 source of funding. If, based upon the association's then
7 current budget, the monthly common expense assessment for the
8 unit at the time of conveyance to the purchaser is anticipated
9 to exceed the monthly assessment stated in the budget, a
10 statement to such effect shall be included.

11 (b) A declarant shall promptly amend the disclosure
12 statement to reflect any material change in the information
13 required by this chapter.

14 (c) The master association, within ten days after a request
15 by a declarant, ~~or~~ any a holder of declarant rights, or a
16 purchaser referred to in section 515B.4-101(e), or the
17 authorized representative of any of them, shall furnish the
18 information required to be provided by subsection (a)(20). A
19 declarant or other person who provides information pursuant to
20 subsection (a)(20) is not liable to the purchaser for any
21 erroneous information if the declarant or other person: (i) is
22 not an affiliate of or related in any way to a person authorized
23 to appoint the master association board pursuant to section
24 515B.2-121(c)(3), and (ii) has no actual knowledge that the
25 information is incorrect.

26 Sec. 35. Minnesota Statutes 2004, section 515B.4-105, is
27 amended to read:

28 515B.4-105 [COMMON INTEREST COMMUNITY WITH BUILDING ONCE
29 OCCUPIED.]

30 The disclosure statement of a common interest community
31 containing any building that was at any time before the creation
32 of the common interest community wholly or partially occupied,
33 for any purpose, by persons other than purchasers or persons who
34 occupied with the consent of purchasers, shall contain, in
35 addition to the information required by sections 515B.4-102,
36 515B.4-103 and 515B.4-104:

1 (1) a professional opinion prepared by a registered
2 professional architect or engineer, licensed in this state,
3 describing the present current condition of all structural
4 components, and mechanical and electrical installations,
5 material to the use and enjoyment of the building, to the extent
6 reasonably ascertainable without disturbing the improvements or
7 dismantling the equipment, which will be in place or be
8 operational at the time of conveyance of the first unit to a
9 person other than a declarant;

10 (2) a statement by the declarant of the expected useful
11 life of each item reported on in paragraph (1) or a statement
12 that no representations are made in that regard; and

13 (3) a list of any outstanding notices of uncured violations
14 of building code or other municipal regulations, together with
15 the estimated cost of curing those violations.

16 Sec. 36. Minnesota Statutes 2004, section 515B.4-106, is
17 amended to read:

18 515B.4-106 [PURCHASER'S RIGHT TO CANCEL.]

19 (a) A person required to deliver a disclosure statement
20 pursuant to section 515B.4-101(b) shall provide at least one of
21 the purchasers of the unit with a copy of the disclosure
22 statement and all amendments thereto before conveyance of the
23 unit. If a purchaser is not given a disclosure statement more
24 than five ten days before execution of the purchase agreement,
25 the purchaser may, before conveyance, cancel the purchase
26 agreement within five ten days after first receiving the
27 disclosure statement. If a purchaser is given the disclosure
28 statement more than five ten days before execution of the
29 purchase agreement, the purchaser may not cancel the purchase
30 agreement pursuant to this section. ~~Except-as-expressly~~
31 ~~provided-in-this-chapter,~~ The five-day ten-day rescission period
32 cannot-be-waived may be modified or waived, in writing, by
33 agreement of the purchaser of a unit only after the purchaser
34 has received and had an opportunity to review the disclosure
35 statement. The person required to deliver a disclosure
36 statement may not condition the sale of the unit on the

1 purchaser agreeing to modify or waive the purchaser's ten-day
2 right of rescission, may not contractually obligate the
3 purchaser to modify or waive the purchaser's ten-day right of
4 rescission, and may not include a modification or waiver of the
5 ten-day right of rescission in any purchase agreement for the
6 unit. To be effective, a modification or waiver of a
7 purchaser's ten-day right of rescission must be evidenced by an
8 instrument separate from the purchase agreement signed by the
9 purchaser more than three days after the purchaser signs the
10 purchase agreement.

11 (b) If an amendment to the disclosure statement materially
12 and adversely affects a purchaser, then the purchaser shall have
13 five ten days after delivery of the amendment to cancel the
14 purchase agreement in accordance with this section. The ten-day
15 rescission period may be modified or waived, in writing, by
16 agreement of the purchaser of a unit only after the purchaser
17 has received and had an opportunity to review the disclosure
18 statement. To be effective, a modification or waiver of a
19 purchaser's ten-day right of rescission under this section must
20 be evidenced by a written instrument separate from the purchase
21 agreement signed by the purchaser more than three days after the
22 purchaser receives the amendment.

23 (c) If a purchaser elects to cancel a purchase agreement
24 pursuant to this section, the purchaser may do so by giving
25 notice thereof pursuant to section 515B.1-115. Cancellation is
26 without penalty, and all payments made by the purchaser before
27 cancellation shall be refunded promptly. Notwithstanding
28 anything in this section to the contrary, the purchaser's
29 cancellation rights under this section terminate upon the
30 purchaser's acceptance of a conveyance of the unit.

31 (d) If a declarant obligated to deliver a disclosure
32 statement fails to deliver to the purchaser a disclosure
33 statement which substantially complies with this chapter, the
34 declarant shall be liable to the purchaser in the amount of
35 \$1,000, in addition to any damages or other amounts recoverable
36 under this chapter or otherwise. Any action brought under this

1 subsection shall be commenced within the time period specified
2 in section 515B.4-115, subsection (a).

3 Sec. 37. Minnesota Statutes 2004, section 515B.4-107, is
4 amended to read:

5 515B.4-107 [RESALE OF UNITS.]

6 (a) In the event of a resale of a unit by a unit owner
7 other than a declarant, unless exempt under section
8 515B.4-101(c), the unit owner shall furnish to a purchaser,
9 before execution of any purchase agreement for a unit or
10 otherwise before conveyance, the following documents relating to
11 the association or to the master association, if applicable:

12 (1) copies of the declaration (other than any CIC plat),
13 the articles of incorporation and bylaws, any rules and
14 regulations, and any amendments thereto or supplemental
15 declarations;

16 (2) the organizational and operating documents relating to
17 the master association, if any; and

18 (3) a resale disclosure certificate from the association
19 dated not more than 90 days prior to the date of the purchase
20 agreement or the date of conveyance, whichever is earlier,
21 containing the information set forth in subsection (b).

22 (b) The resale disclosure certificate must be in
23 substantially the following form:

24 COMMON INTEREST COMMUNITY

25 RESALE DISCLOSURE CERTIFICATE

- 26 Name of Common Interest Community:.....
- 27 Name of Association:.....
- 28 Address of Association:.....
- 29 Unit Number(s) (include principal unit and any garage, storage,
30 or other auxiliary unit(s)):.....

31 The following information is furnished by the association
32 named above according to Minnesota Statutes, section 515B.4-107.

33 1. There is no right of first refusal or other restraint
34 on the free alienability of the above unit(s) contained in the
35 declaration, bylaws, rules and regulations, or any amendment to
36 them, except as follows:.....

1
2
3

4 2. The following periodic installments of common expense
5 assessments and special assessments are payable with respect to
6 the above unit(s):

7 a. Annual assessment
8 installments: \$..... Due:

9 b. Special assessment
10 installments: \$..... Due:

11 c. Unpaid assessments, fines, or other charges:

12 (1) Annual \$.....

13 (2) Special \$.....

14 (3) Fines \$.....

15 (4) Other Charges \$.....

16 d. The association has/has not (strike one) approved
17 a plan for levying certain common expense
18 assessments against fewer than all the units
19 according to Minnesota Statutes, section 515B.3-115,
20 subsection (e). If a plan is approved, a description
21 of the plan is attached to this certificate.

22 3. In addition to the amounts due under paragraph 2, the
23 following additional fees or charges other than assessments are
24 payable by unit owners (include late payment charges, user fees,
25 etc.):.....

26
27

28 4. There are no extraordinary expenditures approved by the
29 association, and not yet assessed, for the current and two
30 succeeding fiscal years, except as follows:.....

31
32

33 5. The association has reserved the following amounts for
34 maintenance, repair, or replacement:.....

35
36

1 The following portions of these reserves are designated for the
2 following specified projects or uses:.....
3

4 6. The following documents are furnished with this
5 certificate according to statute:

6 a. The most recent regularly prepared balance sheet and
7 income and expense statement of the association.

8 b. The current budget of the association.

9 7. There are no unsatisfied judgments against the
10 association, except as follows (identify creditor and amount):..
11
12

13 8. There are no pending lawsuits to which the association
14 is a party, except as follows (identify and summarize status):..
15
16
17

18 9. Description of insurance coverages:

19 a. The association provides the following insurance
20 coverage for the benefit of unit owners: (Reference may be made
21 to applicable sections of the declaration or bylaws; however,
22 any additional coverages should be described in this space)
23
24
25

26 b. The following described fixtures, decorating items, or
27 construction items within the unit referred to in Minnesota
28 Statutes, section 515B.3-113, subsection (b), are insured by the
29 association (check as applicable):

- 30 ... Ceiling or wall finishing materials
- 31 ... Floor coverings
- 32 ... Cabinetry
- 33 ... Finished millwork
- 34 ... Electrical or plumbing fixtures serving a single unit
- 35 ... Built-in appliances
- 36 ... Improvements and betterments as originally constructed

1 ... Additional improvements and betterments installed by
2 unit owners

3 10. The board of directors of the association has not
4 notified the unit owner (i) that any alterations or improvements
5 to the unit or to the limited common elements assigned to it
6 violate any provision of the declaration; or (ii) that the unit
7 is in violation of any governmental statute, ordinance, code, or
8 regulation, except as follows:.....
9

10 11. The remaining term of any leasehold estate affecting
11 the common interest community and the premises governing any
12 extension or renewal of it are as follows:.....
13

14

15 12. In addition to the above, the following matters
16 affecting the unit or the unit owner's obligations with respect
17 to the unit are deemed material.
18

19 I hereby certify that the foregoing information and
20 statements are true and correct as of
21 (Date)

22 By:
23 Title:
24 (Association representative)
25 Address:.....
26 Phone Number:.....

27 RECEIPT

28 In addition to the foregoing information furnished by the
29 association, the unit owner is obligated to furnish to the
30 purchaser before execution of any purchase agreement for a unit
31 or otherwise before conveyance, copies of the following
32 documents relating to the association or to the master
33 association (as applicable): the declaration (other than any
34 common interest community plat), articles of incorporation,
35 bylaws, rules and regulations (if any), and any amendments to
36 these documents. Receipt of the foregoing documents, and the

1 resale disclosure certificate, is acknowledged by the
2 undersigned buyer(s).

3 Dated:

4 (Buyer)

5

6 (Buyer)

7 (c) If the association is subject to a master association
8 to which has been delegated the association's powers under
9 section 515B.3-102(a)(2), then the financial information
10 required to be disclosed under subsection (b) may be disclosed
11 on a consolidated basis.

12 (d) The association, within ten days after a request by a
13 unit owner, or the unit owner's authorized representative, shall
14 furnish the certificate required in subsection (a). The
15 association may charge a reasonable fee for furnishing the
16 certificate and any association documents related thereto. A
17 unit owner providing a certificate pursuant to subsection (a) is
18 not liable to the purchaser for any erroneous information
19 provided by the association and included in the certificate.

20 (e) A purchaser is not liable for any unpaid common expense
21 assessments, including special assessments, if any, not set
22 forth in the certificate required in subsection (a). A
23 purchaser is not liable for the amount by which the annual or
24 special assessments exceed the amount of annual or special
25 assessments stated in the certificate for assessments payable in
26 the year in which the certificate was given, except to the
27 extent of any increases subsequently approved in accordance with
28 the declaration or bylaws. A unit owner is not liable to a
29 purchaser for the failure of the association to provide the
30 certificate, or a delay by the association in providing the
31 certificate in a timely manner.

32 Sec. 38. Minnesota Statutes 2004, section 515B.4-108, is
33 amended to read:

34 515B.4-108 [PURCHASER'S RIGHT TO CANCEL RESALE.]

35 (a) Unless a purchaser is given the information required to
36 be delivered by section 515B.4-107, by a delivery method

1 described in that section, more than ~~five~~ ten days prior to the
2 execution of the purchase agreement for the unit the purchaser
3 may, prior to the conveyance, cancel the purchase agreement
4 within ~~five~~ ten days after receiving the information. ~~Except-as~~
5 ~~expressly-provided-in-this-chapter,-the-five-day-rescission~~
6 ~~period-cannot-be-waived.~~ The ten-day rescission period may be
7 modified or waived, in writing, by agreement of the purchaser of
8 a unit only after the purchaser has received and had an
9 opportunity to review the information required to be delivered
10 by section 515B.4-107. The person required to deliver the
11 information required to be delivered by section 515B.4-107 may
12 not condition the sale of the unit on the purchaser agreeing to
13 modify or waive the purchaser's ten-day right of rescission, may
14 not contractually obligate the purchaser to modify or waive the
15 purchaser's ten-day right of rescission, and may not include a
16 modification or waiver of the ten-day right of rescission in any
17 purchase agreement for the unit. To be effective, a
18 modification or waiver of a purchaser's ten-day right of
19 rescission must be evidenced by an instrument separate from the
20 purchase agreement signed by the purchaser more than three days
21 after the purchaser signs the purchase agreement.

22 (b) A purchaser who elects to cancel a purchase agreement
23 pursuant to subsection (a), may do so by hand delivering notice
24 thereof or mailing notice by postage prepaid United States mail
25 to the seller or the agent. Cancellation is without penalty and
26 all payments made by the purchaser shall be refunded promptly.

27 Sec. 39. Minnesota Statutes 2004, section 515B.4-109, is
28 amended to read:

29 515B.4-109 [ESCROW DEPOSITS.]

30 All earnest money paid or deposits made in connection with
31 the purchase or reservation of units from or with a declarant
32 shall be deposited in an escrow account controlled jointly by
33 the declarant and the purchaser, or controlled by a licensed
34 title insurance company or agent thereof, an attorney
35 representing either the declarant or the purchaser, a licensed
36 real estate broker ~~or~~, an independent bonded escrow company, or

1 a governmental agency or instrumentality. The escrow account
2 shall be in an institution whose deposits are insured by a
3 governmental agency or instrumentality. The money or deposits
4 shall be held in the escrow account until (i) delivered to the
5 declarant at closing; (ii) delivered to the declarant because of
6 the purchaser's default under a reservation agreement or a
7 contract to purchase the unit; (iii) delivered to the purchaser
8 pursuant to the provisions of section 515B.4-106 or the
9 provisions of a reservation agreement or a contract to purchase;
10 or (iv) delivered for payment of construction costs pursuant to
11 a written agreement between the declarant and the purchaser.

12 Sec. 40. Minnesota Statutes 2004, section 515B.4-111, is
13 amended to read:

14 515B.4-111 [CONVERSION PROPERTY.]

15 (a) A unit owner of a unit occupied for residential use in
16 a common interest community containing conversion property shall
17 not, for a period of one year following the recording of the
18 declaration creating the common interest community, require any
19 occupant of the unit to vacate the unit unless the unit owner
20 gives notice to the occupant in the manner described in this
21 section. The notice shall be given no later than 120 days
22 before the occupant is required to vacate the unit. The notice
23 shall be sufficient as to all occupants of a unit if it is hand
24 delivered or mailed to the unit to be vacated, addressed to the
25 occupants thereof. If the holder of the lessee's interest in
26 the unit has given the unit owner an address different than that
27 of the unit, then the notice shall also be given to the holder
28 of the lessee's interest at the designated address. The notice
29 shall satisfy comply with the following requirements:

30 (1) The notice shall set forth generally the rights
31 conferred by this section.

32 (2) The notice shall have attached to the notice intended
33 for the holder of the lessee's interest a form of purchase
34 agreement setting forth the terms of sale contemplated by
35 subsection (d) and a statement of any significant restrictions
36 on the use and occupancy of the unit to be imposed by the

1 declarant.

2 (3) The notice shall state that the occupants of the
3 residential unit may demand to be given 60 additional days
4 before being required to vacate, if any of them, or any person
5 residing with them, is (i) 62 years of age or older, (ii) a
6 person with a disability as defined in section 268A.01, or (iii)
7 a minor child on the date the notice is given. This demand must
8 be in writing, contain reasonable proof of qualification, and be
9 given to the declarant within 30 days after the notice of
10 conversion is delivered or mailed.

11 (4) The notice shall be contained in an envelope upon which
12 the following shall be boldly printed: "Notice of Conversion."

13 (b) Notwithstanding subsection (a), an occupant may be
14 required to vacate a unit upon less than 120 days' notice by
15 reason of nonpayment of rent, utilities or other monetary
16 obligations, violations of law, waste, or conduct that disturbs
17 other occupants' peaceful enjoyment of the premises. The terms
18 of the tenancy may not be altered during the notice period,
19 except that the holder of the lessee's interest or other party
20 in possession may vacate and terminate the tenancy upon one
21 month's written notice to the declarant. Nothing in this
22 section prevents the unit owner and any occupant from agreeing
23 to a right of occupancy on a month-to-month basis beyond the
24 120-day notice period, or to an earlier termination of the right
25 of occupancy.

26 (c) No repair work or remodeling may be commenced or
27 undertaken in the occupied units or common areas of the building
28 during the notice period, unless reasonable precautions are
29 taken to ensure the safety and security of the occupants.

30 (d) For 60 days after delivery or mailing of the notice
31 described in subsection (a), the holder of the lessee's interest
32 in the unit on the date the notice is mailed or delivered shall
33 have an option to purchase that unit on the terms set forth in
34 the purchase agreement attached to the notice. The purchase
35 agreement shall contain no terms or provisions which violate any
36 state or federal law relating to discrimination in housing. If

1 the holder of the lessee's interest fails to purchase the unit
2 during that 60-day period, the unit owner may not offer to
3 dispose of an interest in that unit during the following 180
4 days at a price or on terms more favorable to the offeree than
5 the price or terms offered to the holder. This subsection does
6 not apply to any unit in a conversion building if that unit will
7 be restricted exclusively to nonresidential use or if the
8 boundaries of the converted unit do not substantially conform to
9 the boundaries of the residential unit before conversion.

10 (e) If a unit owner, in violation of subsection (b),
11 conveys a unit to a purchaser for value who has no knowledge of
12 the violation, the recording of the deed conveying the unit or,
13 in a cooperative, the conveyance of the right to possession of
14 the unit, extinguishes any right a holder of a lessee's interest
15 who is not in possession of the unit may have under subsection
16 (d) to purchase that unit, but the conveyance does not affect
17 the right of the holder to recover damages from the unit owner
18 for a violation of subsection (d).

19 (f) If a notice of conversion specifies a date by which a
20 unit or proposed unit must be vacated or otherwise complies with
21 the provisions of chapter 504B, the notice also constitutes a
22 notice to vacate specified by that statute.

23 (g) Nothing in this section permits a unit owner to
24 terminate a lease in violation of its terms.

25 (h) Failure to give notice as required by this section is a
26 defense to an action for possession until a notice complying
27 with this section is given and the applicable notice period
28 terminates.

29 Sec. 41. Minnesota Statutes 2004, section 515B.4-115, is
30 amended to read:

31 515B.4-115 [STATUTE OF LIMITATIONS FOR WARRANTIES.]

32 (a) A judicial proceeding for breach of an obligation
33 arising under section 515B.4-101(e) or 515B.4-106(d), shall be
34 commenced within six months after the conveyance of the unit or
35 other parcel of real estate.

36 (b) A judicial proceeding for breach of an obligation

1 arising under section 515B.4-112 or 515B.4-113 shall be
 2 commenced within six years after the cause of action accrues,
 3 but the parties may agree to reduce the period of limitation to
 4 not less than two years. An agreement reducing the period of
 5 limitation shall be binding on the purchaser's successor assigns.
 6 With respect to a unit that may be occupied for residential use,
 7 an agreement to reduce the period of limitation must be
 8 evidenced by an instrument separate from the purchase agreement
 9 signed by the purchaser.

10 (c) Subject to subsection (d), a cause of action under
 11 section 515B.4-112 or 515B.4-113, regardless of the purchasers
 12 lack of knowledge of the breach, accrues:

13 (1) as to a unit, at the earlier of the time of conveyance
 14 of the unit by the declarant to a bona fide purchaser of the
 15 unit other than an affiliate of a declarant, or the time the
 16 purchaser enters into possession of the unit; and

17 (2) as to each common element, the latest of (i) the time
 18 the common element is completed, (ii) the time the first unit in
 19 the common interest community is conveyed to a bona fide
 20 purchaser, or if the common element is located on property that
 21 is additional real estate at the time the first unit therein is
 22 conveyed to a bona fide purchaser, or (iii) the termination of
 23 the period of declarant control.

24 (d) If a warranty explicitly extends to future performance
 25 or duration of any improvement or component of the common
 26 interest community, the cause of action accrues at the time the
 27 breach is discovered or at the end of the period for which the
 28 warranty explicitly extends, whichever is earlier."

29 Amend the title as follows:

30 Page 1, line 13, after "515B.4-107;" insert "515B.4-108;"

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

33
 34
 35 (Committee Chair)

36
 37 February 8, 2005.....
 38 (Date of Committee recommendation)

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S.F. No. 379 - Authorizing Appointment of Retired Court Commissioners to Perform Judicial Duties

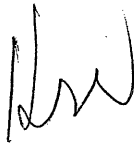
Author: Senator Richard J. Cohen

Prepared by: Harry Walsh, Senate Counsel (651/296-6200)

Date: January 24, 2005

S.F. No. 379 allows the chief justice to assign a retired court commissioner to act as a court commissioner in the district court.

HW:cs



Senator Cohen introduced--**S.F. No. 379:** Referred to the Committee on Judiciary.

1 A bill for an act

2 relating to courts; authorizing retired court
3 commissioners to be appointed to perform judicial
4 duties in the district court; amending Minnesota
5 Statutes 2004, sections 2.724, subdivision 3; 489.01,
6 by adding a subdivision.

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

8 Section 1. Minnesota Statutes 2004, section 2.724,
9 subdivision 3, is amended to read:

10 Subd. 3. [RETIRED JUSTICES AND, JUDGES, AND
11 COMMISSIONERS.] (a) The chief justice of the Supreme Court may
12 assign a retired justice of the Supreme Court to act as a
13 justice of the Supreme Court pursuant to subdivision 2 or as a
14 judge of any other court. The chief justice may assign a
15 retired judge of any court to act as a judge of any court except
16 the Supreme Court. The chief justice may assign a retired court
17 commissioner to act as a commissioner of any district court.
18 The chief justice of the Supreme Court shall determine the pay
19 and expenses to be received by a judge or commissioner acting
20 pursuant to this paragraph.

21 (b) A judge who has been elected to office and who has
22 retired as a judge in good standing and is not practicing law
23 may also be appointed to serve as judge of any court except the
24 Supreme Court. A retired judge acting under this paragraph will
25 receive pay and expenses in the amount established by the
26 Supreme Court.

1 (c) A commissioner who has retired as a commissioner in
2 good standing and is not practicing law may also be appointed to
3 serve as commissioner of any court except the Supreme Court or
4 Court of Appeals. A retired commissioner acting under this
5 paragraph will receive pay and expenses in the amount
6 established by the Supreme Court.

7 Sec. 2. Minnesota Statutes 2004, section 489.01, is
8 amended by adding a subdivision to read:

9 Subd. 4. [COURT COMMISSIONER RETIREMENT.] Upon retirement
10 of a court commissioner, the retired commissioner may be
11 appointed pursuant to section 2.724 and assigned to aid and
12 assist in the performance of such duties as may be assigned by
13 the chief judge of the district and act thereon with full powers
14 of a commissioner as provided in section 489.02.

Delete everything after the
enacting clause and insert:

Section 1. [RANSBY COUNTY COURT COMMISSIONER]

The chief justice of the Supreme court may
assign a retired court commissioner to act
in Ransby county
as a commissioner of the district court

This section expires December 31, 2025.

The commissioner may perform duties
assigned by the chief judge of the judicial
district with the powers provided by
Minnesota Statutes, section 489.02

Delete the title and insert:

Rainey county

Senator Cohen introduced--
S.F. No. 379: Referred to the Committee on Judiciary.

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A bill for an act,^a
relating to courts; authorizing retired court
commissioners to be appointed to perform judicial
duties in the district court; amending Minnesota
Statutes 2004, sections 2.724, subdivision 3, 489.01,
by adding a subdivision.

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

Section 1. Minnesota Statutes 2004, section 2.724,
subdivision 3, is amended to read:

Subd. 3. [RETIRED JUSTICES AND, JUDGES, AND
COMMISSIONERS.] (a) The chief justice of the Supreme Court may
assign a retired justice of the Supreme Court to act as a
justice of the Supreme Court pursuant to subdivision 2 or as a
judge of any other court. The chief justice may assign a
retired judge of any court to act as a judge of any court except
the Supreme Court. The chief justice may assign a retired court
commissioner to act as a commissioner of any district court.

The chief justice of the Supreme Court shall determine the pay
and expenses to be received by a judge or commissioner acting
pursuant to this paragraph.

(b) A judge who has been elected to office and who has
retired as a judge in good standing and is not practicing law
may also be appointed to serve as judge of any court except the
Supreme Court. A retired judge acting under this paragraph will
receive pay and expenses in the amount established by the
Supreme Court.

1 (c) A commissioner who has retired as a commissioner in
2 good standing and is not practicing law may also be appointed to
3 serve as commissioner of any court except the Supreme Court or
4 Court of Appeals. A retired commissioner acting under this
5 paragraph will receive pay and expenses in the amount
6 established by the Supreme Court.

7 Sec. 2. Minnesota Statutes 2004, section 489.01, is
8 amended by adding a subdivision to read:

9 Subd. 4. [COURT COMMISSIONER RETIREMENT.] Upon retirement
10 of a court commissioner, the retired commissioner may be
11 appointed pursuant to section 2.724 and assigned to aid and
12 assist in the performance of such duties as may be assigned by
13 the chief judge of the district and act thereon with full powers
14 of a commissioner as provided in section 489.02.

1 Senator moves to amend S.F. No. 379 as follows:

2 Page 1, line 17, delete "of any district court" and insert "
3 in any judicial district"

4 Page 2, line 12, delete "such" and delete "as may be"

5 Page 2, line 13, delete "thereon" and insert "on them"

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S.F. No. 392 - Probate Venue; Trustee Powers; Omitted Children

Author: Senator John C. Hottinger

Prepared by: Harry Walsh, Senate Counsel (651/296-6200)

Date: January 28, 2005

Section 1 allows trust petitions to be filed in the district court in the county where the trust is administered.

Section 2 requires trustees, in making adjustments between principal and income, to consider investment returns from comparable portfolios.

Section 3 removes a limitation on the trustee's power to make adjustments between principal and income that were affected by the federal marital deduction.

Sections 4 and 5 change cross-references.

Section 6 makes two changes related to children omitted in wills. First, children, incorrectly presumed dead, will not take if the estate is left to the other parent. Second, children of a deceased omitted child are allowed to take the deceased omitted child's share.

HW:cs



Senators Hottinger and Neuville introduced--
S.F. No. 392: Referred to the Committee on Judiciary.

1 A bill for an act
2 relating to probate; changing and clarifying certain
3 venue, trustee powers, and omitted beneficiary
4 provisions; amending Minnesota Statutes 2004, sections
5 501B.17; 501B.705, subdivisions 2, 3, 4, 5; 524.2-302.

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

7 Section 1. Minnesota Statutes 2004, section 501B.17, is
8 amended to read:

9 501B.17 [VENUE.]

10 Subdivision 1. [FILING OF PETITION.] A petition under
11 section 501B.16 or 501B.22 may be filed:

12 (1) in the case of a trust created by will, in the district
13 court for (i) the county where the will was probated, or-in-the
14 district-court-for (ii) the county where a trustee having
15 custody of part or all of the trust assets resides or has a main
16 place-of-business trust office, or (iii) the county in which the
17 trust is administered;

18 (2) in the case of a nontestamentary trust, in the district
19 court for (i) the county where a trustee having custody of part
20 or all of the trust assets resides or has a main-place-of
21 business trust office or (ii) the county in which the trust is
22 administered; or

23 (3) in the case of a trust holding real property, in the
24 district court for any county in which the real estate is
25 situated.

1 Subd. 2. [PRIOR COURT PROCEEDINGS.] In the case of a trust
2 with respect to which there have been prior court proceedings in
3 this state, a petition under section 501B.16 or 501B.22 must be
4 filed in the court in which the prior proceedings were held.

5 Sec. 2. Minnesota Statutes 2004, section 501B.705,
6 subdivision 2, is amended to read:

7 Subd. 2. [FACTORS TO CONSIDER.] In deciding whether and to
8 what extent to exercise the power conferred by subdivision 1, a
9 trustee shall consider all factors relevant to the trust and its
10 beneficiaries, including, but not limited to, the following
11 factors:

12 (1) the nature, purpose, and expected duration of the
13 trust;

14 (2) the intent of the settlor;

15 (3) the identity and circumstances of the beneficiaries;

16 (4) the needs for liquidity, regularity of income, and
17 preservation and appreciation of capital;

18 (5) the assets held in the trust; the extent to which they
19 consist of financial assets, interests in closely held
20 enterprises, tangible and intangible personal property, or real
21 property; the extent to which an asset is used by a beneficiary;
22 and whether an asset was purchased by the trustee or received
23 from the settlor;

24 (6) the net amount allocated to income under the other
25 provisions of sections 501B.59 to 501B.76 and the increase or
26 decrease in the value of the principal assets, which the trustee
27 may estimate as to assets for which market values are not
28 readily available;

29 (7) whether and to what extent the terms of the trust give
30 the trustee the power to invade principal or accumulate income
31 or prohibit the trustee from invading principal or accumulating
32 income, and the extent to which the trustee has exercised a
33 power from time to time to invade principal or accumulate
34 income;

35 (8) the actual and anticipated effect of economic
36 conditions on principal and income and effects of inflation and

1 deflation;

2 (9) the anticipated tax consequences of an adjustment; and

3 (10) the income investment return ~~(determined without~~
4 ~~regard to adjustments under this section)~~ during the accounting
5 period from other trusts with similar purposes current economic
6 conditions from other portfolios meeting fiduciary requirements.

7 Sec. 3. Minnesota Statutes 2004, section 501B.705,
8 subdivision 3, is amended to read:

9 Subd. 3. [LIMITATION ON TRUSTEE'S POWER.] A trustee may
10 not make an adjustment:

11 ~~(1) that diminishes the income interest in a trust that~~
12 ~~requires all of the income to be paid at least annually to a~~
13 ~~spouse and for which an estate tax or gift tax marital deduction~~
14 ~~would be allowed or allowable, in whole or in part, if the~~
15 ~~trustee did not have the power to make the adjustment;~~

16 ~~(2) that reduces the actuarial value of the income interest~~
17 ~~in a trust to which a person transfers property with the intent~~
18 ~~to qualify for a gift tax exclusion;~~

19 ~~(3) (2) that changes the amount payable to a beneficiary as~~
20 ~~fixed annuity or a fixed fraction of the value of the trust~~
21 ~~assets;~~

22 ~~(4) (3) from any amount that is permanently set aside for~~
23 ~~charitable purposes under a will or the terms of a trust unless~~
24 ~~both income and principal are so set aside; provided, however,~~
25 ~~that this limitation does not apply to any trust created prior~~
26 ~~to August 1, 2001, to the extent the trustee receives amounts~~
27 ~~during the accounting period which would, under the provisions~~
28 ~~of Minnesota Statutes 2000, section 501B.70, in effect prior to~~
29 ~~August 1, 2001, have been allocated to income;~~

30 ~~(5) (4) if possessing or exercising the power to make an~~
31 ~~adjustment causes an individual to be treated as owner of all or~~
32 ~~part of the trust for income tax purposes and the individual~~
33 ~~would not be treated as the owner if the trustee did not possess~~
34 ~~the power to make adjustment;~~

35 ~~(6) (5) if possessing or exercising the power to make an~~
36 ~~adjustment causes all or part of the trust assets to be included~~

1 for estate tax purposes in the estate of an individual who has
2 the power to remove or appoint the trustee, or both, and the
3 assets would not be included in the estate of the individual if
4 the trustee did not possess the power to make an adjustment;
5 ~~(7)~~ (6) if the trustee is a beneficiary of the trust; or
6 ~~(8)~~ (7) if the trustee is not a beneficiary, but the
7 adjustment would benefit the trustee directly or indirectly.

8 Sec. 4. Minnesota Statutes 2004, section 501B.705,
9 subdivision 4, is amended to read:

10 Subd. 4. [COTRUSTEE MAY EXERCISE POWER.] If the provisions
11 of subdivision 3, clause (4), (5), (6), or (7), ~~or-(8)~~, apply to
12 a trustee and there is more than one trustee, a cotrustee to
13 whom the provision does not apply may make the adjustment unless
14 the exercise of the power by the remaining trustee or trustees
15 is not permitted by the terms of the trust.

16 Sec. 5. Minnesota Statutes 2004, section 501B.705,
17 subdivision 5, is amended to read:

18 Subd. 5. [RELEASE OF POWER.] A trustee may release the
19 entire power conferred by subdivision 1 or may release only the
20 power to adjust from income to principal or to adjust from
21 principal to income if the trustee is uncertain about whether
22 possessing or exercising the power will cause a result described
23 in subdivision 3, clause (1), (2), (3), (4), (5), ~~(6)~~ or
24 ~~(8)~~ (7), or if the trustee determines that possessing or
25 exercising the power will or may deprive the trust of a tax
26 benefit or impose a tax burden not described in subdivision 3.
27 The release may be permanent or for a specified period,
28 including a period measured by the life of an individual.

29 Sec. 6. Minnesota Statutes 2004, section 524.2-302, is
30 amended to read:

31 524.2-302 [OMITTED CHILDREN.]

32 (a) Except as provided in paragraph (b), if a testator's
33 will fails to provide for any of the testator's children born or
34 adopted after the execution of the will, the omitted after-born
35 or after-adopted child receives a share in the estate as follows:

36 (1) If the testator had no child living when the will was

1 executed, an omitted after-born or after-adopted child receives
2 a share in the estate equal in value to that which the child
3 would have received had the testator died intestate, unless the
4 will devised all or substantially all the estate to the other
5 parent of the omitted child and that other parent survives the
6 testator and is entitled to take under the will.

7 (2) If the testator had one or more children living when
8 the will was executed, and the will devised property or an
9 interest in property to one or more of the then-living children,
10 an omitted after-born or after-adopted child is entitled to
11 share in the testator's estate as follows:

12 (i) The portion of the testator's estate in which the
13 omitted after-born or after-adopted child is entitled to share
14 is limited to devises made to the testator's then-living
15 children under the will.

16 (ii) The omitted after-born or after-adopted child is
17 entitled to receive the share of the testator's estate, as
18 limited in subclause (i), that the child would have received had
19 the testator included all omitted after-born and after-adopted
20 children with the children to whom devises were made under the
21 will and had given an equal share of the estate to each child.

22 (iii) To the extent feasible, the interest granted an
23 omitted after-born or after-adopted child under this section
24 must be of the same character, whether equitable or legal,
25 present or future, as that devised to the testator's then-living
26 children under the will.

27 (iv) In satisfying a share provided by this paragraph,
28 devises to the testator's children who were living when the will
29 was executed abate ratably. In abating the devises of the
30 then-living children, the court shall preserve to the maximum
31 extent possible the character of the testamentary plan adopted
32 by the testator.

33 (b) Neither paragraph (a), clause (1) or (2), nor paragraph
34 (c), applies if:

35 (1) it appears from the will that the omission was
36 intentional; or

1 (2) the testator provided for the omitted after-born or
2 after-adopted child by transfer outside the will and the intent
3 that the transfer be in lieu of a testamentary provision is
4 shown by the testator's statements or is reasonably inferred
5 from the amount of the transfer or other evidence.

6 (c) If at the time of execution of the will the testator
7 fails to provide in the will for a living child solely because
8 the testator believes the child to be dead, the child receives a
9 share in the estate equal in value to that which the child would
10 have received had the testator died intestate, unless the will
11 devised all or substantially all of the estate to the other
12 parent of the child the testator believes to be dead and the
13 other parent survives the testator and is entitled to take under
14 the will.

15 (d) If a deceased omitted child would have been entitled to
16 a share under this section if the omitted child had not
17 predeceased the testator and the deceased omitted child leaves
18 issue who survive the testator, the issue who represent the
19 deceased omitted child are entitled to take the deceased omitted
20 child's share.

21 (e) In satisfying a share provided by paragraph (a), clause
22 (1), or (c), devises made by the will abate under section
23 524.3-902.

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S.F. No. 288 - Exempting Certain Jewelry from Attachment

Author: Senator Betsy L. Wergin

Prepared by: Harry Walsh, Senate Counsel (651/296-6200)

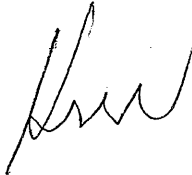
Date: January 18, 2005

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S.F. No. 288 exempts a debtor's wedding rings from collection processes up to a value of \$1,225.

HW:cs



Senators Wergin and Scheid introduced--

S.F. No. 288: Referred to the Committee on Judiciary

1 A bill for an act

2 relating to creditors remedies; exempting certain
3 jewelry from attachment, garnishment, or sale;
4 amending Minnesota Statutes 2004, section 550.37,
5 subdivision 4.

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

7 Section 1. Minnesota Statutes 2004, section 550.37,
8 subdivision 4, is amended to read:

9 Subd. 4. [PERSONAL GOODS.] (a) All wearing apparel, one
10 watch, utensils, and foodstuffs of the debtor and the debtor's
11 family; and

12 (b) household furniture, household appliances, phonographs,
13 radio and television receivers of the debtor and the debtor's
14 family, not exceeding \$4,500 in value; and

15 (c) the debtor's aggregate interest in wedding rings, not
16 to exceed \$1,225 in value, held primarily for the personal or
17 family use of the debtor or a dependent of the debtor.

18 The exemption provided by this subdivision may not be
19 waived except with regard to purchase money security interests.
20 Except for a pawnbroker's possessory lien, a nonpurchase money
21 security interest in the property exempt under this subdivision
22 is void.

23 If a debtor has property of the type which would qualify
24 for the exemption under clause (b) of this subdivision, of a
25 value in excess of \$4,500 an itemized list of the exempt

1 property, together with the value of each item listed, shall be
2 attached to the security agreement at the time a security
3 interest is taken, and a creditor may take a nonpurchase money
4 security interest in the excess over \$4,500 by requiring the
5 debtor to select the exemption in writing at the time the loan
6 is made.

7 Sec. 2. [EFFECTIVE DATE.]

8 Section 1 is effective the day following final enactment.

1 Senator moves to amend S.F. No. 288 as follows:
2 Page 1, lines 15 to 17, delete the new language and insert:
3 "(c) the debtor's aggregate interest, not exceeding \$1,225
4 in value, in wedding rings in the debtor's possession"

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S.F. No. 391 - Real Property Interests

Author: Senator Thomas M. Neuville

Prepared by: Harry Walsh, Senate Counsel (651/296-6200)

Date: January 25, 2005

S.F. No. 391 amends various laws relating to interests in real estate.

Section 1, by removing an open-ended exception to the 30-year rule, requires that certain interests must be recorded in order to remain valid after 30 years.

Sections 2 to 6 relate to cancellation notices.

Section 2, for the purposes of the purchase cancellation law, enlarges the definition of "purchase agreement" and defines "suspend."

Section 3 makes explicit to what party certain purchase cancellation notices must be given.

Section 4 removes a reference to default and states which party's notice of a cancellation begins a time limitation.

Section 5 extends the warnings in the cancellation notice form.

Section 6 provides that either party may ask a court to intervene in a cancellation dispute.

Sections 7 to 9 relate to foreclosure advice notices.

Section 7 limits the requirement for a foreclosure advice notice to certain residential dwellings.

Section 8 provides for recording affidavits about foreclosure advice notices.

Section 9 limits a challenge to a foreclosure because of a failure to provide a foreclosure advice notice to one year after the redemption period.

HW:cs

A handwritten signature in black ink, appearing to be the initials 'HW' with a stylized flourish.

Senators Neuville and Hottinger introduced--

S.F. No. 391: Referred to the Committee on Judiciary

1 A bill for an act

2 relating to real property; providing for certain
3 defeasible estates; modifying residential purchase
4 agreement cancellations; amending the foreclosure
5 advice notice; amending Minnesota Statutes 2004,
6 sections 500.20, subdivision 2a; 559.217, subdivisions
7 1, 3, 4, 5, 6; 580.041, by adding subdivisions.

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

9 Section 1. Minnesota Statutes 2004, section 500.20,
10 subdivision 2a, is amended to read:

11 Subd. 2a. [RESTRICTION OF DURATION OF CONDITION.] Except
12 for any right to reenter or to repossess as provided in
13 subdivision 3, all private covenants, conditions, or
14 restrictions created by which the title or use of real property
15 is affected, cease to be valid and operative 30 years after the
16 date of the deed, or other instrument, or the date of the
17 probate of the will, creating them, and may be disregarded.

18 This subdivision does not apply to covenants, conditions,
19 or restrictions:

20 ~~(1) that were created before August 17, 1988, by deed or~~
21 ~~other instrument dated on or after August 17, 1982, or by will~~
22 ~~the date of death of the testator of which was on or after~~
23 ~~August 17, 1982,~~

24 {2} that were created before August 1, 1959, under which a
25 person who owns or has an interest in real property against
26 which the covenants, conditions, or restrictions have been filed

1 claims a benefit of the covenant, condition, or restriction if
2 the person records in the office of the county recorder or files
3 in the office of the registrar of titles in the county in which
4 the real estate affected is located, on or before March 30,
5 1989, a notice sworn to by the claimant or the claimant's agent
6 or attorney: setting forth the name of the claimant; describing
7 the real estate affected; describing the deed, instrument, or
8 will creating the covenant, condition, or restriction; and
9 stating that the covenant, condition, or restriction is not
10 nominal and may not be disregarded under subdivision 1;

11 ~~(3)~~ (2) that are created by the declaration, bylaws, floor
12 plans, or condominium plat of a condominium created before
13 August 1, 1980, under chapter 515, or created on or after August
14 1, 1980, under chapter 515A or 515B, or by any amendments of the
15 declaration, bylaws, floor plans, or condominium plat;

16 ~~(4)~~ (3) that are created by the articles of incorporation,
17 bylaws, or proprietary leases of a cooperative association
18 formed under chapter 308A;

19 ~~(5)~~ (4) that are created by a declaration or other
20 instrument that authorizes and empowers a corporation of which
21 the qualification for being a stockholder or member is ownership
22 of certain parcels of real estate, to hold title to common real
23 estate for the benefit of the parcels;

24 ~~(6)~~ (5) that are created by a deed, declaration,
25 reservation, or other instrument by which one or more portions
26 of a building, set of connecting or adjacent buildings, or
27 complex or project of related buildings and structures share
28 support, structural components, ingress and egress, or utility
29 access with another portion or portions;

30 ~~(7)~~ (6) that were created after July 31, 1959, ~~and before~~
31 ~~August 17, 1982~~, under which a person who owns or has an interest
32 in real estate against which covenants, conditions, or
33 restrictions have been filed claims a benefit of the covenants,
34 conditions, or restrictions if the person records in the office
35 of the county recorder or files in the office of the registrar
36 of titles in the county in which the real estate affected is

1 located during the period commencing on the 28th anniversary of
2 the date of the deed or instrument, or the date of the probate
3 of the will, creating them and ending on the 30th anniversary, a
4 notice as described in clause ~~(2)~~ (1); or

5 ~~(8)~~ (7) that are created by a declaration or bylaws of a
6 common interest community created under or governed by chapter
7 515B, or by any amendments thereto.

8 A notice filed in accordance with clause ~~(2)~~ (1) or ~~(7)~~ (6)
9 delays application of this subdivision to the covenants,
10 conditions, or restrictions for a period ending on the later of
11 seven years after the date of filing of the notice, or until
12 final judgment is entered in an action to determine the validity
13 of the covenants, conditions, or restrictions, provided in the
14 case of an action the summons and complaint must be served and a
15 notice of lis pendens must be recorded in the office of the
16 county recorder or filed in the office of the registrar of
17 titles in each county in which the real estate affected is
18 located within seven years after the date of recording or filing
19 of the notice under clause ~~(2)~~ (1) or ~~(7)~~ (6).

20 County recorders and registrars of titles shall accept for
21 recording or filing a notice conforming with this subdivision
22 and charge a fee corresponding with the fee charged for filing a
23 notice of lis pendens of similar length. The notice may be
24 discharged in the same manner as a notice of lis pendens and
25 when discharged, together with the information included with it,
26 ceases to constitute either actual or constructive notice.

27 Sec. 2. Minnesota Statutes 2004, section 559.217,
28 subdivision 1, is amended to read:

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

32 (b) "Purchase agreement" means an earnest money contract,
33 purchase agreement, or exercised option ~~that-could-be-canceled~~
34 ~~under-section-559-217-subdivision-4,-paragraph-(a),~~ whether or
35 not such instrument is subject to section 559.21.

36 (c) "Residential real property" means real property,

1 including vacant land, occupied by, or intended to be occupied
2 by, in the aggregate, one to four families as their residence.

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

6 Sec. 3. Minnesota Statutes 2004, section 559.217,
7 subdivision 3, is amended to read:

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

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

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

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

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

34 (c) The purchase agreement is canceled unless, within 15
35 days after the service of the notice upon the other party to the
36 purchase agreement, the party upon whom the notice was served

1 fully complies with the conditions in default and completes the
2 unfulfilled conditions or secures from a court an order
3 suspending the cancellation.

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

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

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

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

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

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

22 (c) The cancellation of the purchase agreement is complete,
23 unless, within 15 days after the service of the notice upon the
24 other party to the purchase agreement, the party upon whom the
25 notice was served secures from a court an order suspending the
26 cancellation.

27 Sec. 5. Minnesota Statutes 2004, section 559.217,
28 subdivision 5, is amended to read:

29 Subd. 5. [FORM OF NOTICE OF CANCELLATION.] (a) For
30 purposes of subdivision 3, the term "notice" means a writing
31 stating the information required in subdivision 3, paragraph
32 (a), stating the name, address, and telephone number of that
33 party serving the notice or of an attorney authorized by such
34 party to serve the notice, and including the following
35 information in 12-point or larger underlined uppercase type, or
36 8-point type if published, or in large legible handwritten

1 letters:

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

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

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

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

29 HOWEVER, IF WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE
30 YOU SERVE YOUR OWN NOTICE UNDER MINNESOTA STATUTES, SECTION
31 559.217, YOUR PURCHASE AGREEMENT WILL BE IMMEDIATELY CANCELED,
32 BUT YOUR ENTITLEMENT TO EARNEST MONEY MUST BE DETERMINED BY A
33 COURT.

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

36 (b) For purposes of subdivision 4, the term "notice" means

1 a writing stating the information required in subdivision 4,
 2 paragraph (a), stating the name, address, and telephone number
 3 of the party serving the notice or of an attorney authorized by
 4 that party to serve the notice, and including the following
 5 information in 12-point or larger underlined uppercase type, or
 6 8-point type if published, or in large legible handwritten
 7 letters:

8 "THIS NOTICE IS PURSUANT TO MINNESOTA STATUTES, SECTION
 9 559.217, TO INFORM YOU THAT YOUR PURCHASE AGREEMENT FOR THE
 10 (PURCHASE) (SALE) (STRIKE ONE) OF THE ABOVE PROPERTY HAS BEEN
 11 CANCELED FOR THE REASONS SPECIFIED IN THIS NOTICE. THE
 12 CANCELLATION WILL BE CONFIRMED ... DAYS AFTER (SERVICE OF THIS
 13 NOTICE UPON YOU) (THE FIRST DAY OF PUBLICATION OF THIS NOTICE)
 14 (STRIKE ONE) UNLESS BEFORE THEN YOU SECURE FROM A DISTRICT COURT
 15 AN ORDER THAT THE CONFIRMATION OF CANCELLATION OF THE PURCHASE
 16 AGREEMENT BE SUSPENDED UNTIL YOUR CLAIMS OR DEFENSES ARE FINALLY
 17 DISPOSED OF BY TRIAL, HEARING, OR SETTLEMENT. YOUR ACTION MUST
 18 SPECIFICALLY STATE THOSE FACTS AND GROUNDS THAT DEMONSTRATE YOUR
 19 CLAIMS OR DEFENSES.

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

27 HOWEVER, IF WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE
 28 YOU SERVE YOUR OWN NOTICE UNDER MINNESOTA STATUTES, SECTION
 29 559.217, YOUR PURCHASE AGREEMENT WILL BE IMMEDIATELY CANCELED,
 30 BUT YOUR ENTITLEMENT TO EARNEST MONEY MUST BE DETERMINED BY A
 31 COURT.

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

34 Sec. 6. Minnesota Statutes 2004, section 559.217,
 35 subdivision 6, is amended to read:

36 Subd. 6. [SUSPENSION OF CANCELLATION, ATTORNEY FEES, COURT

1 FEES, AND COSTS OF SERVICE.] ~~If the party~~ A seller or a
 2 purchaser upon whom the notice is served ~~commences~~ may commence
 3 a proceeding under section 559.211 to obtain a court order to
 4 suspend the cancellation of a purchase agreement under this
 5 section, and in such proceeding the court ~~shall~~ may award court
 6 filing fees, attorney fees, and costs of service actually
 7 expended to the prevailing party in an amount not to exceed
 8 \$3,000.

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

11 Subd. 1a. [APPLICABILITY.] This section applies to
 12 foreclosure of mortgages under chapter 580 on property
 13 consisting of one to four family dwelling units, one of which
 14 the owner occupies as the owner's principal place of residency
 15 on the date of service of the notice of sale on the owner.

16 Sec. 8. Minnesota Statutes 2004, section 580.041, is
 17 amended by adding a subdivision to read:

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

33 Sec. 9. Minnesota Statutes 2004, section 580.041, is
 34 amended by adding a subdivision to read:

35 Subd. 4. [VALIDATION OF FORECLOSURE SALES.] No mortgage
 36 foreclosure sale under chapter 580 shall be invalid because of

1 failure to comply with this section unless an action to
2 invalidate the sale is commenced and a notice of lis pendens is
3 filed with the county recorder or registrar of titles within one
4 year after the last day of the redemption period of the
5 mortgagor, the mortgagor's personal representatives, or assigns.
6 The provisions of this subdivision shall not affect any action
7 or proceeding pending on August 1, 2005, or which is commenced
8 before February 1, 2006, in any court of this state, provided a
9 notice of lis pendens of the action is filed with the county
10 recorder or registrar of titles before February 1, 2006.

11 Sec. 10. [REVISOR'S INSTRUCTION.]

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

1 Senator moves to amend S.F. No. 391 as follows:

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

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

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

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

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

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

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

35 559.217 [~~DECLARATORY CANCELLATION OF~~ RESIDENTIAL PURCHASE
36 AGREEMENT.]

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

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

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

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

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

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

1 holding earnest money under the purchase agreement a notice:

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

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

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

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

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

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

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

1 description;

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

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

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

7 (c) The cancellation of the purchase agreement is complete,
8 unless, within 15 days after the service of the notice upon the
9 other party to the purchase agreement, the party upon whom the
10 notice was served secures from a court an order suspending the
11 cancellation.

12 Subd. 5. [FORM OF NOTICE OF CANCELLATION.] (a) For
13 purposes of subdivision 3, the term "notice" means a writing
14 stating the information required in subdivision 3, paragraph
15 (a), stating the name, address, and telephone number of that
16 party serving the notice or of an attorney authorized by such
17 party to serve the notice, and including the following
18 information in 12-point or larger underlined uppercase type, or
19 8-point type if published, ~~or-in-large-legible-handwritten~~
20 ~~letters~~:

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

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

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

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

12 HOWEVER, IF WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE
 13 YOU SERVE YOUR OWN NOTICE UNDER MINNESOTA STATUTES, SECTION
 14 559.217, YOUR PURCHASE AGREEMENT WILL BE IMMEDIATELY CANCELED,
 15 BUT YOUR ENTITLEMENT TO EARNEST MONEY MUST BE DETERMINED BY A
 16 COURT OR DETERMINED BY ARBITRATION IF AGREED TO BY THE PARTIES.

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

19 (b) For purposes of subdivision 4, the term "notice" means
 20 a writing stating the information required in subdivision 4,
 21 paragraph (a), stating the name, address, and telephone number
 22 of the party serving the notice or of an attorney authorized by
 23 that such party to serve the notice, and including the following
 24 information in 12-point or larger underlined uppercase type, or
 25 8-point type if published, ~~or in large legible handwritten~~
 26 ~~letters:~~

27 "THIS NOTICE IS PURSUANT TO MINNESOTA STATUTES, SECTION
 28 559.217, TO INFORM YOU THAT YOUR PURCHASE AGREEMENT FOR THE
 29 (PURCHASE) (SALE) (STRIKE ONE) OF THE ABOVE PROPERTY HAS BEEN
 30 CANCELED FOR THE REASONS SPECIFIED IN THIS NOTICE. THE
 31 CANCELLATION WILL BE CONFIRMED ... DAYS AFTER (SERVICE OF THIS
 32 NOTICE UPON YOU) (THE FIRST DAY OF PUBLICATION OF THIS NOTICE)
 33 (STRIKE ONE) UNLESS BEFORE THEN YOU SECURE FROM A DISTRICT COURT
 34 AN ORDER THAT THE CONFIRMATION OF CANCELLATION OF THE PURCHASE
 35 AGREEMENT BE SUSPENDED UNTIL YOUR CLAIMS OR DEFENSES ARE FINALLY
 36 DISPOSED OF BY TRIAL, HEARING, OR SETTLEMENT. YOUR ACTION MUST

1 SPECIFICALLY STATE THOSE FACTS AND GROUNDS THAT DEMONSTRATE YOUR
2 CLAIMS OR DEFENSES.

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

10 HOWEVER, IF WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE
11 YOU SERVE YOUR OWN NOTICE UNDER MINNESOTA STATUTES, SECTION
12 559.217, YOUR PURCHASE AGREEMENT WILL BE IMMEDIATELY CANCELED,
13 BUT YOUR ENTITLEMENT TO EARNEST MONEY MUST BE DETERMINED BY A
14 COURT OR DETERMINED BY ARBITRATION IF AGREED TO BY THE PARTIES.

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

17 Subd. 6. [SUSPENSION OF CANCELLATION, ATTORNEY FEES, COURT
18 FEES, AND COSTS OF SERVICE.] ~~if-the-party~~ A seller or a
19 purchaser upon whom the notice is served ~~commences~~ may commence
20 a proceeding under section 559.211 to obtain a court order to
21 suspend the cancellation of a purchase agreement under this
22 section, and in the proceeding the court ~~shall~~ may award court
23 filing fees, attorney fees, and costs of service actually
24 expended to the prevailing party in an amount not to exceed
25 \$3,000.

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

34 (b) When a cancellation under this section has been
35 completed, the party who served the notice, or that party's
36 attorney, may execute an affidavit stating that the party caused

1 a notice of cancellation to be served upon the other party, that
2 the other party neither complied with the actions required in
3 the notice, if applicable, nor obtained a court order suspending
4 the cancellation, and that the property is residential real
5 property.

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

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

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

26 Subd. 8. [ATTORNEY AS AGENT FOR SERVICE.] Any attorney
27 authorized to serve the notice of cancellation by a party
28 initiating a cancellation under this section is designated as
29 the attorney who may receive service as agent for the party
30 initiating the cancellation of all summons, complaints, orders,
31 and motions made in connection with an action by the party upon
32 whom the notice is served to restrain the cancellation. Service
33 in the action may be made upon the party initiating the
34 cancellation by mailing a copy of the process to such party or
35 to such party's attorney, by first class mail, postage prepaid,
36 to the address stated in the notice.

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

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

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

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

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

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

30 Subd. 4. [VALIDATION OF FORECLOSURE SALES.] No mortgage
31 foreclosure sale under this chapter shall be invalid because of
32 failure to comply with this section unless an action to
33 invalidate the sale is commenced and a notice of lis pendens is
34 filed with the county recorder or registrar of titles within one
35 year after the last day of the redemption period of the
36 mortgagor, the mortgagor's personal representatives, or assigns.

1 This subdivision shall not affect any action or proceeding
2 pending on August 1, 2005, or which is commenced before February
3 1, 2006, in any court of this state, provided a notice of lis
4 pendens of the action is filed with the county recorder or
5 registrar of titles before February 1, 2006.

6 Sec. 8. [REVISOR'S INSTRUCTION.]

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

9 Delete the title and insert:

10

"A bill for an act

11
12
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17

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

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S.F. No. 393 - Common Interest Ownership Act

Author: Senator Thomas M. Neville

Prepared by: Harry Walsh, Senate Counsel (651/296-6200)

Date: January 28, 2005

This bill is an extensive revision of numerous parts of the Minnesota Common Interest Ownership Act referred to below as CIOA.

Section 1 changes the applicability section, altering some details in the description of the various types of communities that may opt to be subject to **chapter 515B**, the CIOA.

Section 2 amends the definitions in the act. The amendment to **paragraph (10)** provides that any real estate that meets the definition of a common interest community is such a community whether or not it is subject to the CIOA. The amendment to **paragraph (32)** allows the declarant to make some additional improvements.

Section 3 allows cities to prohibit or impose conditions on the conversion of residential buildings only.

Section 4 provides that, in a condemnation proceeding, the summons may be served upon the association.

Section 5 clarifies what lands need to be entered in the tract index by the county recorder. **Section 5** also provides for some recording fees.

Section 6 provides who must execute a declaration and, for condominiums and common interest communities, what stage the construction must have reached before a declaration may be recorded.

Section 7 adds detail to the definition of the boundaries of units.

Section 8 provides that a description of units may refer to a master declaration.

Section 9 provides that a declaration may include the declarant's good-faith estimate of the maximum number of units and that the declarant may include additional real estate without owning it.

Section 10 states that the declaration need not allocate votes to units that are auxiliary to other units.

Section 11 makes the common interest community plat part of the declaration for planned communities using the plat and adds conditions for the plat.

Section 12 provides for the contents of supplemental declarations for flexible common interest communities.

Section 13 regulates the combination of existing units and provides for the consequences of combinations.

Section 14 makes a style change.

Section 15 provides for the title to units created from former common elements.

Section 16 extends the rules for the termination of a common interest community to those using a CIC plat and provides for the allocation of value when a limited common element is destroyed.

Section 17 provides for the duties of master associations and provides for the contents of master associations' articles of incorporation.

Section 18 provides a procedure for the change of form of a common interest community.

Section 19 provides for the severance of part of a common interest community.

Section 20 makes style changes.

Section 21 makes explicit the association's authority to grant easements, rights-of-way, leases, and licenses.

Section 22 regulates the period of declarant control of an association.

Section 23 provides for the termination of declarant contracts.

Section 24 makes a style change.

Section 25 prohibits limits on owner voting by reason of nonpayment of assessments or other violations.

Section 26 regulates the creation of security interests and common elements.

Section 27 permits the board to retain a surplus for use by the association.

Section 28 requires the provision of reserves for the association.

Section 29 regulates the assessments for common expenses.

Sections 30 and 31 provide for liens and for foreclosures of liens.

Section 32 provides for the transfer of documents when an association is transferred from a declarant to the unit owner.

Section 33 requires that purchase agreements contain certain disclosures.

Section 34 makes changes in the general provisions for disclosure statements, including information about statutory warranties, existence and amounts of blanket mortgages, projected common expenses, balance sheets, and information about anticipated assessments for replacements.

Section 35 requires that the disclosure statement contain an architect or engineer's opinion about the condition of buildings.

Section 36 extends a purchaser's right to cancel to ten days.

Section 37 requires that, upon resale of a unit, the purchaser must be provided any supplemental declaration.

Section 38 permits escrows to be deposited with government agencies.

Section 39 makes a style change.

Section 40 requires that certain proceedings for breach must be commenced within six months after the conveyance of a unit.

HW:cs

A handwritten signature in black ink, appearing to be 'HW', is located below the initials 'HW:cs'.

To: Honorable Members of the Senate Judiciary Committee

From: Glenn Dorfman, & Susan Dioury
Minnesota Association of REALTORS®

RE: SF 391- Neuville: Statutory Cancellation of Purchase Agreement
SF 393 – Neuville: MN Common Interest Ownership Act (MCIOA)

Date: February 8, 2005

The MN Association of REALTORS® (MNAR) has worked in conjunction with the Real Property Section of the Bar Association to resolve issues of concern in both SF 391 and 393 which you will be hearing today in the Senate Judiciary Committee.

MNAR respectfully asks for your **support** of the authors delete-all amendment to SF 391 which includes modifications to the Residential Statutory Cancellation language and corrections to the Seller Disclosure law.

SF 393 is a bill pertaining to the MN Common Interest Ownership Act. MNAR supports the delete-all amendment to this bill.

MNAR respectfully asks for **your support of the delete-all amendments** to both SF 391 and SF 393.

Thank you for your consideration.



1 claims of unit owners against that declarant.

2 (2) The following sections in this chapter apply to
3 condominiums created under chapter 515: 515B.1-104 (Variation
4 by Agreement); 515B.1-105 (Separate Titles and Taxation);
5 515B.1-106 (Applicability of Local Ordinances, Regulations, and
6 Building Codes); 515B.1-107 (Eminent Domain); 515B.1-108
7 (Supplemental General Principles of Law Applicable); 515B.1-109
8 (Construction Against Implicit Repeal); 515B.1-112
9 (Unconscionable Agreement or Term of Contract); 515B.1-113
10 (Obligation of Good Faith); 515B.1-114 (Remedies to be Liberally
11 Administered); 515B.1-115 (Notice); 515B.1-116 (Recording);
12 515B.2-103 (Construction and Validity of Declaration and
13 Bylaws); 515B.2-104 (Description of Units); 515B.2-108(d)
14 (Allocation of Interests); 515B.2-109(c) (Common Elements and
15 Limited Common Elements); 515B.2-112 (Subdivision or Conversion
16 of Units); 515B.2-113 (Alteration of Units); 515B.2-114
17 (Relocation of Boundaries Between Adjoining Units); 515B.2-115
18 (Minor Variations in Boundaries); 515B.2-118 (Amendment of
19 Declaration); 515B.2-119 (Termination of Common Interest
20 Community); 515B.3-102 (Powers of Unit Owners' Association);
21 515B.3-103(a), (b), and (g) (Board; Directors and Officers;
22 Period of Declarant Control); 515B.3-107 (Upkeep of Common
23 Interest Community); 515B.3-108 (Meetings); 515B.3-109
24 (Quorums); 515B.3-110 (Voting; Proxies); 515B.3-111 (Tort and
25 Contract Liability); 515B.3-112 (Conveyance or Encumbrance of
26 Common Elements); 515B.3-113 (Insurance); 515B.3-114 (Reserves;
27 Surplus Funds); 515B.3-115 (c), (e), (f), (g), (h), and (i)
28 (Assessments for Common Expenses); 515B.3-116 (Lien for
29 Assessments); 515B.3-117 (Other Liens); 515B.3-118 (Association
30 Records); 515B.3-119 (Association as Trustee); 515B.3-121
31 (Accounting Controls); 515B.4-107 (Resale of Units); 515B.4-108
32 (Purchaser's Right to Cancel Resale); and 515B.4-116 (Rights of
33 Action; Attorney's Fees). Section 515B.1-103 (Definitions)
34 shall apply to the extent necessary in construing any of the
35 sections referenced in this section. Sections 515B.1-105,
36 515B.1-106, 515B.1-107, 515B.1-116, 515B.2-103, 515B.2-104,

1 515B.2-118, 515B.3-102, 515B.3-110, 515B.3-111, 515B.3-113,
2 515B.3-116, 515B.3-117, 515B.3-118, 515B.3-121, 515B.4-107,
3 515B.4-108, and 515B.4-116 apply only with respect to events and
4 circumstances occurring on and after June 1, 1994. All other
5 sections referenced in this section apply only with respect to
6 events and circumstances occurring after July 31, 1999. A
7 section referenced in this section does not invalidate the
8 declarations, bylaws or condominium plats of condominiums
9 created before August 1, 1999. But all sections referenced in
10 this section prevail over the declarations, bylaws, CIC plats,
11 rules and regulations under them, of condominiums created before
12 August 1, 1999, except to the extent that this chapter defers to
13 the declarations, bylaws, CIC plats, or rules and regulations
14 issued under them.

15 (3) This chapter shall not apply to cooperatives and
16 planned communities created prior to June 1, 1994; except by
17 election pursuant to subsection (d), and except that sections
18 515B.1-116, subsections (a), (c), (d), (e), (f), and (h),
19 515B.4-107, and 515B.4-108, apply to all planned communities and
20 cooperatives regardless of when they are created, unless they
21 are exempt under subsection (e).

22 (c) This chapter shall not invalidate any amendment to the
23 declaration, bylaws or condominium plat of any condominium
24 created under chapter 515 or 515A if the amendment was recorded
25 before June 1, 1994. Any amendment recorded on or after June 1,
26 1994, shall be adopted in conformity with the procedures and
27 requirements specified by those instruments and by this
28 chapter. If the amendment grants to any person any rights,
29 powers or privileges permitted by this chapter, all correlative
30 obligations, liabilities and restrictions contained in this
31 chapter shall also apply to that person.

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

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

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

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

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

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

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

35 (1) a planned community ~~or cooperative~~ which consists of ~~12~~
36 ~~or fewer~~ two units ~~subject to the same declaration~~, which is not

1 subject to any rights to subdivide or convert units or to add
2 additional real estate, and ~~which will~~ is not be subject to a
3 master association;

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

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

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

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

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

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

27 515B.1-103 [DEFINITIONS.]

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

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

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

35 (A) A person "controls" a declarant if the person (i) is a
36 general partner, officer, director, or employer of the

1 declarant, (ii) directly or indirectly or acting in concert with
2 one or more other persons, or through one or more subsidiaries,
3 owns, controls, holds with power to vote, or holds proxies
4 representing, more than 20 percent of the voting interest in the
5 declarant, (iii) controls in any manner the election of a
6 majority of the directors of the declarant, or (iv) has
7 contributed more than 20 percent of the capital of the declarant.

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

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

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

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

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

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

36 (7) "Common elements" means all portions of the common

1 interest community other than the units.

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

6 (9) "Common expense liability" means the liability for
7 common expenses allocated to each unit pursuant to section
8 515B.2-108.

9 (10) "Common interest community" or "CIC" means contiguous
10 or noncontiguous real estate within Minnesota that is subject to
11 an instrument which obligates persons owning a separately
12 described parcel of the real estate, or occupying a part of the
13 real estate pursuant to a proprietary lease, by reason of their
14 ownership or occupancy, to pay for (i) real estate taxes levied
15 against; (ii) insurance premiums payable with respect to; (iii)
16 maintenance of; or (iv) construction, maintenance, repair or
17 replacement of improvements located on, one or more parcels or
18 parts of the real estate other than the parcel or part that the
19 person owns or occupies. Real estate which satisfies the
20 definition of a common interest community is a common interest
21 community whether or not it is subject to this chapter. Real
22 estate subject to a master association, regardless of when the
23 master association was formed, shall not collectively constitute
24 a separate common interest community unless so stated in the
25 master declaration recorded against the real estate pursuant to
26 section 515B.2-121, subsection (f)(1).

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

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

1 purchasers.

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

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

8 (15) "Declarant" means:

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

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

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

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

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

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

36 (20) "Limited common element" means a portion of the common

1 elements allocated by the declaration or by operation of section
2 515B.2-102(d) or (f) for the exclusive use of one or more but
3 fewer than all of the units.

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

17 (22) "Master declaration" means a written instrument,
18 however named, (i) recorded on or after June 1, 1994, against
19 property subject to powers exercised by a master association and
20 (ii) ~~satisfying the requirements of~~ complying with section
21 515B.2-121, subsection (f)(1).

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

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

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

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

36 (27) "Purchaser" means a person, other than a declarant,

1 who by means of a voluntary transfer acquires a legal or
2 equitable interest in a unit other than (i) a leasehold interest
3 of less than 20 years, including renewal options, or (ii) a
4 security interest.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (36) "Unit owner" means a declarant or other person who
32 owns a unit, a lessee under a proprietary lease, or a lessee of
33 a unit in a leasehold common interest community whose lease
34 expires simultaneously with any lease the expiration or
35 termination of which will remove the unit from the common
36 interest community, but does not include a secured party. In a

1 common interest community, the declarant is the unit owner of a
2 unit until that unit has been conveyed to another person.

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

5 515B.1-106 [APPLICABILITY OF LOCAL REQUIREMENTS.]

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

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

25 (c) A statutory or home rule charter city, pursuant to an
26 ordinance or charter provision establishing standards to be
27 applied uniformly within its jurisdiction, may prohibit or
28 impose reasonable conditions upon the conversion of
29 buildings occupied wholly or partially for residential use to
30 the common interest community form of ownership only if there
31 exists within the city a significant shortage of suitable rental
32 dwellings available to low and moderate income individuals or
33 families or to establish or maintain the city's eligibility for
34 any federal or state program providing direct or indirect
35 financial assistance for housing to the city. Prior to the
36 adoption of an ordinance pursuant to the authority granted in

1 this subsection, the city shall conduct a public hearing. Any
2 ordinance or charter provision adopted pursuant to this
3 subsection shall not apply to any existing or proposed
4 conversion common interest community (i) for which a bona fide
5 loan commitment for a consideration has been issued by a lender
6 and is in effect on the date of adoption of the ordinance or
7 charter provision, or (ii) for which a notice of conversion or
8 intent to convert required by section 515B.4-111, containing a
9 termination of tenancy, has been given to at least 75 percent of
10 the tenants and subtenants in possession prior to the date of
11 adoption of the ordinance or charter provision.

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

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

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

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

28 515B.1-107 [EMINENT DOMAIN.]

29 (a) If a unit is acquired by eminent domain, or if part of
30 a unit is acquired by eminent domain leaving the unit owner with
31 a remnant which may not practically or lawfully be used for any
32 material purpose permitted by the declaration, the award shall
33 compensate the unit owner and secured party in the unit as their
34 interests may appear, whether or not any common element interest
35 is acquired. Upon acquisition, unless the order or final
36 certificate otherwise provides, that unit's allocated interests

1 are automatically reallocated among the remaining units in
2 proportion to their respective allocated interests prior to the
3 taking, and the association shall promptly prepare, execute, and
4 record an amendment to the declaration reflecting the
5 allocations. Any remnant of a unit remaining after part of a
6 unit is taken under this subsection is thereafter a common
7 element.

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

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

35 (d) In any eminent domain proceeding the units shall be
36 treated as separate parcels of real estate for valuation

1 purposes, regardless of the number of units subject to the
2 proceeding.

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

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

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

11 515B.1-116 [RECORDING.]

12 (a) A declaration, bylaws, any amendment to a declaration
13 or bylaws, and any other instrument affecting a common interest
14 community shall be entitled to be recorded. In those counties
15 which have a tract index, the county recorder shall enter the
16 declaration in the tract index for each unit or other tract
17 affected. The county recorder shall not enter the declaration
18 in the tract index for lands described as additional real
19 estate, unless such lands are added to the common interest
20 community pursuant to section 515B.2-111. The registrar of
21 titles shall file the declaration in accordance with section
22 508.351 or 508A.351. The registrar of titles shall not file the
23 declaration upon certificates of title for lands described as
24 additional real estate, unless such lands are added to the
25 common interest community pursuant to section 515B.2-111.

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

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

34 (d) Subject to any specific requirements of this chapter,
35 if a recorded document relating to a common interest
36 community or a master association purports to require a certain

1 vote or signatures approving any restatement or amendment of the
2 document by a certain number or percentage of unit owners or
3 secured parties, and if the amendment or restatement is to be
4 recorded ~~pursuant-to-this-chapter~~, an affidavit of the president
5 or secretary of the association stating that the required vote
6 or signatures have been obtained shall be attached to the
7 document to be recorded and shall constitute prima facie
8 evidence of the representations contained therein.

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

20 (f) Except as permitted under this subsection, a recording
21 officer shall not file or record a declaration creating a new
22 common interest community, unless the county treasurer has
23 certified that the property taxes payable in the current year
24 for the real estate included in the proposed common interest
25 community have been paid. This certification is in addition to
26 the certification for delinquent taxes required by section
27 272.12. In the case of preexisting common interest communities,
28 the recording officer shall accept, file, and record the
29 following instruments, without requiring a certification as to
30 the current or delinquent taxes on any of the units in the
31 common interest community: (i) a declaration subjecting the
32 common interest community to this chapter; (ii) a declaration
33 changing the form of a common interest community pursuant to
34 section 515B.2-123; or (iii) an amendment to or restatement of
35 the declaration, bylaws, or CIC plat. In order for an
36 instrument to be accepted and recorded under the preceding

1 sentence, the instrument must not create or change unit or
2 common area boundaries.

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

5 515B.2-101 [CREATION OF COMMON INTEREST COMMUNITIES.]

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

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

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

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

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

19 (b) Except as otherwise expressly provided in this chapter,
20 the declaration shall be executed by all persons whose interests
21 in the real estate will be conveyed to unit owners or the
22 association, except vendors under contracts for deed, and by
23 every lessor of a lease the expiration or termination of which
24 will terminate the common interest community. The declaration
25 shall be recorded in every county in which any portion of the
26 common interest community is located. Failure of any party not
27 required to execute a declaration, but having a recorded
28 interest in the common interest community, to join in the
29 declaration shall have no effect on the validity of the common
30 interest community; provided that the party is not bound by the
31 declaration until that party acknowledges the existence of the
32 common interest community in a recorded instrument.

33 (c) In a condominium, a planned community utilizing a CIC
34 plat complying with section 515B.2-110(c), or real-estate a
35 cooperative where the unit boundaries are delineated by
36 a physical structure, a declaration, or an amendment to a

1 declaration adding units, shall not be recorded unless ~~all~~ the
2 structural components of the structures containing the units and
3 the mechanical systems serving more than one unit ~~in all~~
4 ~~buildings-containing-the-units-thereby-created~~, but not the
5 units, are substantially completed, as evidenced by a recorded
6 certificate executed by a registered engineer or architect.

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

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

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

19 515B.2-102 [UNIT BOUNDARIES.]

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

24 (b) In a condominium ~~or~~, a cooperative, or a planned
25 community utilizing a CIC plat complying with section
26 515B.2-110(c), except as the declaration otherwise provides, if
27 the walls, floors, or ceilings of a unit are designated as its
28 boundaries, then the boundaries shall be the interior,
29 unfinished surfaces of the perimeter walls, floors and,
30 ceilings, doors, windows, and door and window frames of the unit.
31 All paneling, tiles, wallpaper, paint, floor covering, and any
32 other finishing materials applied to the interior surfaces of
33 the perimeter walls, floors or ceilings, are a part of the unit,
34 and all other portions of the perimeter walls, floors, ~~or~~
35 ceilings, ~~including-perimeter~~ doors and, windows, and their
36 door and window frames, are a part of the common elements.

1 (c) In a planned community, ~~except as the declaration~~
 2 ~~otherwise provides~~ utilizing a CIC plat complying with section
 3 515B.2-110(d)(1) and (2), the unit boundaries shall be
 4 ~~the boundary lines as designated on a plat recorded pursuant to~~
 5 ~~chapter 505 or on a registered land survey filed~~ lot lines
 6 designated on a plat recorded pursuant to chapter 508 ~~or~~
 7 508A 505.

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

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

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

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

28 515B.2-104 [DESCRIPTION OF UNITS.]

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

33 (b) If the CIC plat for a planned community complies with
 34 chapter 505, 508, or 508A, then a description of a unit in the
 35 planned community is legally sufficient if it is stated in terms
 36 of a plat or registered land survey. In planned communities

1 whose CIC plats comply with section 515B.2-110(c), and in all
2 condominiums and cooperatives created under this chapter, a unit
3 identifier shall contain no more than six characters, only one
4 of which may be a letter.

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

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

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

23 515B.2-106 [DECLARATION OF FLEXIBLE COMMON INTEREST
24 COMMUNITIES.]

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

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

30 (2) a statement of any time limit, not exceeding ten years
31 after the recording of the declaration, upon which any right
32 reserved under paragraph (1) will lapse, together with a
33 statement of any circumstances that will terminate the option
34 before the expiration of the time limit. If no time limit is
35 set forth in the declaration, the time limit shall be ten years
36 after the recording of the declaration; provided, that the time

1 limit may be extended by an amendment to the declaration
2 approved in writing by the declarant, and by the vote or written
3 agreement of unit owners, other than the declarant or an
4 affiliate of the declarant, to whose units are allocated at
5 least 67 percent of the votes in the association;

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

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

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

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

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

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

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

34 (b) A declarant need not have an interest in the additional
35 real estate in order to identify it as such in the declaration,
36 and the recording officer shall index the declaration as

1 provided in section 515B.1-116(a). Identification of additional
2 real estate in the declaration does not encumber or otherwise
3 affect the title to the additional real estate.

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

6 515B.2-108 [ALLOCATION OF INTERESTS.]

7 (a) The declaration shall allocate to each unit:

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

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

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

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

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

33 (d) The declaration may authorize special allocations: (i)
34 of unit owner votes among certain units or classes of units on
35 particular matters specified in the declaration, or (ii) of
36 common expenses among certain units or classes of units on

1 particular matters specified in the declaration. Special
2 allocations may only be used to address operational, physical or
3 administrative differences within the common interest
4 community. A declarant may not utilize special allocations for
5 the purpose of evading any limitation or obligation imposed on
6 declarants by this chapter nor may units constitute a class
7 because they are owned by a declarant.

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

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

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

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

29 515B.2-110 [COMMON INTEREST COMMUNITY PLAT (CIC PLAT).]

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

1 attached to the declaration.

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

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

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

25 (b) The CIC plat, or supplemental or amended CIC plat, for
26 condominiums, for planned communities using a plat complying
27 with subsection (c), and for cooperatives in which the unit
28 owners' interests are characterized as real estate, shall
29 contain certifications by a registered professional land
30 surveyor and registered professional architect, as to the parts
31 of the CIC plat prepared by each, that (i) the CIC plat
32 accurately depicts all information required by this section, and
33 (ii) the work was undertaken by, or reviewed and approved by,
34 the certifying land surveyor or architect. The portions of the
35 CIC plat depicting the dimensions of the portions of the common
36 interest community described in subsections (c)(8), (9), (10),

1 and (12), may be prepared by either a land surveyor or an
2 architect. The other portions of the CIC plat shall be prepared
3 only by a land surveyor. A certification of the CIC plat or an
4 amendment to it under this subsection by an architect is not
5 required if all parts of the CIC plat or amendment are prepared
6 by a land surveyor. Certification by the land surveyor or
7 architect does not constitute a guaranty or warranty of the
8 nature, suitability, or quality of construction of any
9 improvements located or to be located in the common interest
10 community.

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

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

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

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

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

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

28 (6) the location and dimensions of all recorded easements
29 within the land included in the common interest community
30 ~~servicing or~~ burdening any portion of the ~~common-interest~~
31 community land;

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

34 (8) the location and dimensions of limited common elements,
35 except that with respect to limited common elements described in
36 section 515B.2-102, subsections (d) and (f), only such material

1 limited common elements as porches, balconies, decks, patios,
2 and garages shall be shown;

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

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

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

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

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

15 (1) ~~satisfy the requirements of~~ comply with chapter 505
16 ~~5087-or-508A7-as-applicable~~; and

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

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

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

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

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

5 515B.2-111 [EXPANSION OF FLEXIBLE COMMON INTEREST
 6 COMMUNITY.]

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

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

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

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

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

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

31 ~~(4)(6) contain such other provisions as may be reasonably~~
 32 an attached affidavit attesting to the giving of the notice
 33 required by the association, and subsection (b), if such notice
 34 is required.

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

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

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

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

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

34 (c) A lien upon the additional real estate that is not also
 35 upon the existing common interest community is a lien only upon
 36 the units, and their respective interest in the common elements

1 (if any), that are created from the additional real estate.
 2 Units within the common interest community as it existed prior
 3 to expansion are transferred free of liens that existed only
 4 upon the additional real estate, notwithstanding the fact that
 5 the interest in the common elements is a portion of the entire
 6 common interest community, including the additional real estate.

7 (d) If a supplemental declaration in a planned community
 8 utilizing a CIC plat complying with section 515B.2-110(d)(1) and
 9 (2) creates common elements, then a conveyance of the common
 10 elements to the association shall be recorded simultaneously
 11 with the supplemental declaration. If a supplemental
 12 declaration adds additional real estate to a cooperative, then a
 13 conveyance of the additional real estate to the association
 14 shall be recorded simultaneously with the supplemental
 15 declaration.

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

18 515B.2-112 [SUBDIVISION, COMBINATION, OR CONVERSION OF
 19 UNITS.]

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

28 (b) If a the unit is or units are not owned exclusively
 29 by a ~~unit-owner-other-than-a~~ declarant, the unit owner owners of
 30 the units to be combined or subdivided shall prepare cause to be
 31 prepared and submit submitted to the association for approval an
 32 application for an amendment to the declaration and amended CIC
 33 plat, for the purpose of subdividing or combining the unit or
 34 units. The application shall contain, at a minimum, a general
 35 description of the proposed subdivision or combination, and
 36 shall specify in detail the matters required by paragraphs

1 ~~(2)~~ subsection (c)(2) and (3). The basis for disapproval of the
 2 application by the association shall be limited to (i) health or
 3 safety considerations, (ii) liability considerations for the
 4 association and other unit owners, (iii) aesthetic changes to
 5 the common elements or another unit, (iv) any material and
 6 adverse impact on the common elements or another unit, or (v) a
 7 failure to comply with the declaration, this chapter, or
 8 governmental laws, ordinances, or regulations. The association
 9 shall give written notice of its decision and required changes
 10 to the unit owner or owners who made the application. The
 11 association shall establish fair and reasonable procedures and
 12 time frames for the submission and prompt processing of the
 13 applications.

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

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

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

23 (3) reallocate the common element interest, votes in the
 24 association, and common expense liability formerly allocated to
 25 the unit or units among the unit or units created resulting from
 26 the subdivision or combination on the basis of the formula
 27 described in the declaration; and

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

30 ~~(5) conform to the requirements of the declaration and this~~
 31 ~~chapter. The basis for disapproval shall be limited to (i)~~
 32 ~~structural or safety considerations, (ii) liability~~
 33 ~~considerations for the association and other unit owners, (iii)~~
 34 ~~aesthetic considerations if the changes affect exterior portions~~
 35 ~~of a structure, or (iv) a failure to comply with the~~
 36 ~~declaration, this chapter, or governmental laws, ordinances or~~

1 ~~regulations.---The association shall give written notice of its~~
 2 ~~decision and/or required changes to the unit owner.~~

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

15 ~~(e)~~ (e) If a the unit is or units are owned
 16 exclusively by a declarant, the declarant shall have the
 17 authority to unilaterally prepare and record, at its expense, an
 18 amendment and an amended CIC plat subdividing, combining, or
 19 converting the unit or units. The amendment shall comply
 20 ~~with the requirements of subsection (b)(1)~~ subsections (c)(1),
 21 (2), (3), and (4), and shall be limited to those provisions
 22 necessary to accomplish the subdivision, combination, or
 23 conversion unless the consent of unit owners required to amend
 24 the declaration is obtained.

25 ~~(d)~~ (f) A secured party ~~joins in the amendment pursuant~~
 26 ~~to this section,~~ its party's interest and remedies shall be
 27 deemed to apply to the unit or units and the common element
 28 interests that result from the subdivision or conversion
 29 combination of the unit or units in which the secured party held
 30 a security interest. If the secured party enforces any remedy,
 31 including foreclosure of its lien, against any of the resulting
 32 units created, all instruments and notices relating to the
 33 foreclosure shall describe the subject property in terms of
 34 the amendment and the amended descriptions CIC plat which
 35 created the resulting units.

36 Sec. 14. Minnesota Statutes 2004, section 515B.2-113, is

1 amended to read:

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

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

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

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

30 (d) Notwithstanding any contrary provision of section
31 515B.1-102, subsection (b) applies to all common interest
32 communities subject to this chapter, chapter 515, or 515A. The
33 unit owner's rights under this section may not be waived.

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

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

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

22 515B.2-118 [AMENDMENT OF DECLARATION.]

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

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

30 (2) The association and certain unit owners, as applicable,
31 may execute amendments under section 515B.2-107, 515B.2-109,
32 515B.2-112, 515B.2-113, 515B.2-114, 515B.2-119, 515B.2-122,
33 515B.2-123, or 515B.2-124.

34 (3) The unanimous written consent of the unit owners is
35 required for any amendment which (i) creates or increases
36 special declarant rights, (ii) increases the number of units,

1 (iii) changes the boundaries of any unit, (iv) changes the
2 allocated interests of a unit, (v) changes common elements to
3 limited common elements or units, (vi) changes the authorized
4 use of a unit from residential to nonresidential, or conversely,
5 or (vii) changes the characterization of the unit owner's
6 interest in a cooperative from real estate to personal property,
7 or conversely; unless the amendment is expressly permitted or
8 required by other provisions of this chapter. Where the
9 amendment involves the conversion of common elements into a unit
10 or units, the title to the unit or units created shall, upon
11 recording of the amendment, vest in the association.

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

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

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

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

28 515B.2-119 [TERMINATION OF COMMON INTEREST COMMUNITY.]

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

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

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

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

31 (e) The association, on behalf of the unit owners, shall
32 have authority to contract for the sale of real estate in a
33 common interest community pursuant to this section, subject to
34 the required approval. The agreement to terminate shall be
35 deemed to grant to the association a power of attorney coupled
36 with an interest to effect the conveyance of the real estate on

1 behalf of the holders of all interests in the units, including
2 without limitation the power to execute all instruments of
3 conveyance and related instruments. Until the sale has been
4 completed, all instruments in connection with the sale have been
5 executed and the sale proceeds distributed, the association
6 shall continue in existence with all powers it had before
7 termination.

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

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

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

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

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

35 (2) In a condominium or cooperative, or a planned community
36 utilizing a CIC plat complying with section 515B.2-110(c), the

1 underlying legal description of the real estate as set forth in
2 the declaration creating the common interest community, and any
3 amendments thereto, subject to any subsequent conveyance or
4 taking of a fee interest in any part of the property.

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

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

29 (h) The proceeds of any sale of real estate pursuant to
30 subsection (e), together with the assets of the association,
31 shall be held by the association as trustee for unit owners,
32 secured parties and other holders of liens on the units as their
33 interests may appear. Before distributing any proceeds, the
34 association shall have authority to deduct from the proceeds of
35 sale due with respect to the unit (i) unpaid assessments levied
36 by the association with respect to the unit, (ii) unpaid real

1 estate taxes or special assessments due with respect to the
2 unit, and (iii) the share of expenses of sale and winding up of
3 the association's affairs with respect to the unit.

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

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

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

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

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

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

1 perfected; and

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

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

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

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

32 (1) In a condominium or planned community, except as
33 provided in subsection (m), foreclosure or enforcement of a lien
34 or encumbrance against the entire common interest community does
35 not terminate, of itself, the common interest community, and
36 foreclosure or enforcement of a lien or encumbrance against a

1 portion of the common interest community does not withdraw that
2 portion from the common interest community.

3 (m) In a condominium or planned community, if a lien or
4 encumbrance against a portion of the real estate comprising the
5 common interest community has priority over the declaration and
6 the lien or encumbrance has not been partially released, the
7 parties foreclosing the lien or encumbrance, upon foreclosure,
8 may record an instrument excluding the real estate subject to
9 that lien or encumbrance from the common interest community.

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

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

16 515B.2-121 [MASTER ASSOCIATIONS.]

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

21 (b) The members of the master association shall be any
22 combination of (i) unit owners of one or more common interest
23 communities, (ii) one or more associations, (iii) one or more
24 master associations, or (iv) owners of real estate or property
25 owners owner's associations not subject to this chapter in
26 combination with any other category of member. An association
27 or its members may be members of an entity created before June
28 1, 1994, which performs functions similar to those performed by
29 a master association regardless of whether the entity is subject
30 to this chapter.

31 (c) A master association shall be governed by a board of
32 directors. Except as expressly prohibited by the master
33 declaration, the master association's articles of incorporation
34 or bylaws, or other provisions of this chapter, the master
35 association board may act in all instances on behalf of the
36 master association. The directors of a master association shall

1 be elected or, if a nonprofit corporation, elected or appointed,
 2 in a manner consistent with the requirements of the statute
 3 under which the master association is formed and of the master
 4 association's articles of incorporation and bylaws, and subject
 5 to the following requirements:

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

13 (2) The articles of incorporation or bylaws of the master
 14 association may authorize a person, other than a member of an
 15 association or the master association or a unit owner, including
 16 a declarant, to appoint or elect one director.

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

27 (i) the voluntary surrender of the right to appoint
 28 directors;

29 (ii) the date ten years after the date the master
 30 declaration is recorded;

31 (iii) the date, if any, in the articles of incorporation;
 32 or

33 (iv) the date when at least 75 percent of the associations
 34 ~~that are members of the master association or whose members are~~
 35 ~~members of the master association are controlled by their~~
 36 ~~members.--An association's members control the association when~~

1 ~~they have the right to elect or appoint a majority of the~~
2 ~~association's voting directors~~ units and other parcels of real
3 estate which are referred to in subsection (f)(1)(vii) have been
4 conveyed to such persons for occupancy by the persons or their
5 tenants.

6 (4) The term of any director appointed under subsection (3)
7 expires 60 days after the right to appoint directors
8 terminates. The master association's board of directors shall
9 call an annual or special meeting of the master association's
10 members to elect or appoint successor directors within the
11 60-day period.

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

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

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

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

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

6 (i) the name of the master association;

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

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

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

17 (v) a description of the master association's powers. To
 18 ~~be-exercised-by-the-master-association-on-behalf-of-its-members~~
 19 ~~and-on-behalf-of-the-members-of-its-members-in-the-case-of~~
 20 ~~members-that-are-common-interest-communities.--The-provisions-of~~
 21 ~~the-master-declaration-with-respect-to-the-grant-and-exercise-of~~
 22 ~~powers-for-common-interest-communities-subject-to-the-master~~
 23 ~~association-shall-be-consistent-with-the-declarations-of-the~~
 24 ~~common-interest-communities-that-delegate-powers-to-the-master~~
 25 ~~association~~ the extent described in the master declaration, a
 26 master association has the powers with respect to the master
 27 association's members and the property subject to the master
 28 declaration that section 515B.3-102 grants to an association
 29 with respect to the association's members and the property
 30 subject to the declaration. A master association also has the
 31 powers delegated to it by an association pursuant to subsection
 32 (f)(2) or by a property owner's association not subject to the
 33 chapter; provided (i) that the master declaration identifies the
 34 powers and authorizes the delegation either expressly or by a
 35 grant of authority to the board of the association or property
 36 owner's association and (ii) that the master association board

1 has not refused the delegation pursuant to subsection (f)(4).
 2 The provisions of the declarations of the common interest
 3 communities that delegate powers to the master association shall
 4 be consistent with the provisions of the master declaration that
 5 govern the delegation of the powers;

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

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

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

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

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

27 (i) delegate any of the powers described in section
 28 515B.3-102 to a the master association; provided, that a
 29 delegation of the powers described in section 515B.3-102(a)(2)
 30 is effective only if expressly stated in the declaration; and

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

34 ~~(4)~~ (3) With respect to any other property subject to a
 35 master association, there need not be an instrument other than
 36 the master declaration recorded against the property to empower

1 the master association to exercise powers with respect to the
2 property.

3 ~~(5)~~ (4) If a declaration or other recorded instrument
4 authorizes a the board or owner the board of a property owner's
5 association to delegate powers to a master association, the
6 master association board may refuse any delegation of powers
7 that does not comply with (i) this chapter, (ii) the declaration
8 or other recorded instrument, or (iii) the organizational
9 documents of the master association.

10 ~~(6)~~ (5) The failure of a declaration, a board or an owner
11 of property subject to a master association to properly delegate
12 some or all of the powers to the master association does not
13 affect the authority of the master association to exercise those
14 and other powers with respect to other common interest
15 communities or owners of properties that are subject to the
16 master association.

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

24 (h) Sections 515B.3-103(a), (b), and (g), 515B.3-108,
25 515B.3-109, 515B.3-110, and 515B.3-112 shall apply in the
26 conduct of the affairs of a master association. But the rights
27 of voting, notice, and other rights enumerated in those sections
28 apply ~~only~~ to persons who elect or appoint the board of a master
29 association, whether or not those persons are otherwise unit
30 owners within the meaning of this chapter.

31 (i) If so provided in the master declaration, a master
32 association may levy assessments for common expenses of the
33 master association against the property subject to the master
34 declaration, and have and foreclose liens securing the
35 assessments. The liens shall have the same priority against
36 secured parties, shall include the same fees and charges, and

1 may be foreclosed in the same manner, as assessment liens under
2 section 515B.3-116. The master association's lien shall have
3 priority as against the lien of an association or property
4 owner's association subject to the master association,
5 regardless of when the lien arose or was perfected.

6 (1) Master association common expenses shall be allocated
7 among the members of the master association in a fair and
8 equitable manner. If the members ~~are~~ include associations or
9 property owners' owner's associations, then the master
10 assessments may be allocated among and levied against the
11 associations or property owner's associations, or allocated
12 among and levied directly against the units or other parcels of
13 real estate owned by the members of the association or property
14 owner's association. If so provided in the master declaration,
15 master assessments levied against a member association or
16 property owner's association are allocated among and levied
17 against the units or other parcels of real estate owned by the
18 members of the association or property owner's association. If
19 applicable and appropriate, the formulas and principles
20 described in section 515B.2-108, subsections (b), (c), (d), and
21 (e), shall be used in making the allocations. The assessment
22 formulas and procedures described in the declarations of any
23 common interest communities or any instruments governing other
24 real estate subject to the master association shall not conflict
25 with the formulas and procedures described in the master
26 declaration.

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

1 certificate.

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

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

9 515B.2-123 [CHANGE OF FORM OF COMMON INTEREST COMMUNITY.]

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

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

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

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

35 (b) Upon approval as provided in subsection (a), the
36 association in the existing common interest community shall have

1 authority to execute the declaration of the new common interest
2 community on behalf of the unit owners of, and all other persons
3 holding an interest in, the units or other property which is a
4 part of the existing common interest community, and to do all
5 other acts necessary to create the new common interest community.

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

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

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

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

30 515B.2-124 [SEVERANCE OF COMMON INTEREST COMMUNITY.]

31 (a) Unless the declaration provides otherwise, a part of a
32 common interest community containing one or more units, with or
33 without common elements, may be severed from the common interest
34 community, subject to the requirements of this section. Subject
35 to any additional requirements contained in the declaration, the
36 severance shall be approved in a written severance

1 agreement ~~satisfying the requirements of~~ complying with this
2 section, executed by:

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

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

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

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

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

29 (d) The severance agreement shall:

30 (1) Approve an amendment to the declaration complying with
31 this chapter, in substantially the same form to be recorded,
32 which, at a minimum (i) legally describes the real estate
33 constituting the remaining common interest community and the
34 real estate being severed, (ii) restates the number of units in
35 the remaining common interest community, (iii) reallocates the
36 interests of the unit owners in the remaining common interest

1 community among the remaining units in accordance with the
2 allocation formula set forth in the declaration, and (iv)
3 recites any easements to which the severed portion of the common
4 interest community remains subject.

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

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

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

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

32 (e) The severance agreement or a memorandum of it shall be
33 recorded in every county in which a part of the common interest
34 community is located. The recording of the severance agreement
35 or memorandum of it shall, from the date of recording,
36 constitute notice to all persons subsequently acquiring an

1 interest in the common interest community that the common
2 interest community is being severed, and that those persons
3 acquire their interests subject to the terms and conditions
4 contained in the severance agreement and the amendment to the
5 declaration.

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

14 (g) If the unit owners whose units are being severed from
15 the common interest community intend to form a new common
16 interest community, then said unit owners shall unanimously, by
17 at least 80 percent of the votes allocated by the existing
18 declaration to said units, approve a new declaration, articles
19 of incorporation and bylaws to govern the new common interest
20 community no later than 60 days before the effective date of the
21 severance. The new declaration creating-the-new-common-interest
22 community shall be recorded simultaneously with the amendment to
23 the existing declaration. No later than 30 days before after
24 the effective date of the severance agreement, the unit-owners
25 shall-cause articles of incorporation creating the
26 association governing intended to govern the new common interest
27 community to-be-created-by-filing-the-articles-of-incorporation
28 of-the-association shall be filed with the secretary of state
29 and promptly thereafter the unit owners whose units are being
30 severed shall elect a board of directors to act on behalf of the
31 new association. The board of directors of the new association
32 shall coordinate-the-completion-of-the-severance cooperate with
33 the board of directors of the existing association to complete
34 the severance. The existing association shall retain all
35 authority to act on behalf of the common interest community
36 until the amendment to the existing declaration is and the new

1 declaration are recorded.

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

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

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

20 (3) The recording officer for each county in which the
21 common interest community is located shall index the property
22 located in that county in its records under the legal
23 descriptions required by this subsection as of the date of
24 recording of the amendment to the declaration. In the case of
25 registered property, the registrar of titles shall cancel the
26 existing certificates of title for the severed part of the
27 common interest community and issue certificates of title for
28 the property using the legal descriptions required by this
29 subsection.

30 (i) In a condominium or planned community, if the severed
31 part of the common interest community is not to be reconstituted
32 as a new common interest community following severance, title to
33 the common elements and, in a common interest community in which
34 all units have upper and lower boundaries described in the
35 declaration title to all the real estate in the severed part of
36 the common interest community, vests in the unit owners of the

1 units being severed, upon severance, as tenants in common in
 2 proportion to their respective allocated interests in the
 3 declaration, and liens on the units shift accordingly. While
 4 the tenancy in common exists, each unit owner and the unit
 5 owner's successors in interest have an exclusive right to
 6 occupancy of the portion of the real estate that formerly
 7 constituted the unit, and a nonexclusive easement across, over
 8 and under any common elements contained in the severed portion
 9 of the common interest community for enjoyment, access,
 10 utilities, communication services, and other essential services,
 11 as applicable.

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

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

19 515B.3-101 [ORGANIZATION OF UNIT OWNERS' ASSOCIATION.]

20 A common interest community shall be administered by ~~a-unit~~
 21 ~~owners~~¹ an association. The ~~unit-owners~~¹ association shall be
 22 incorporated no later than the date the common interest
 23 community is created. The membership of the association at all
 24 times consists exclusively of all unit owners or, following
 25 termination of the common interest community, of all former unit
 26 owners entitled to distributions of proceeds under section
 27 515B.2-119 or their heirs, successors, or assigns. The
 28 association shall be organized as a Minnesota profit or
 29 nonprofit corporation, or may, in the case of a cooperative, be
 30 organized under chapter 308A. In the event of a conflict
 31 between this chapter and any other chapter under which the
 32 association is incorporated, this chapter shall control.

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

35 515B.3-102 [POWERS OF UNIT OWNERS' ASSOCIATION.]

36 (a) Except as provided in subsection (b), and subject to

1 the provisions of the declaration or bylaws, the association
2 shall have the power to:

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

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

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

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

31 (5) make contracts and incur liabilities;

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

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

36 (8) acquire, hold, encumber, and convey in its own name any

1 right, title, or interest to real estate or personal property,
2 but (i) common elements in a condominium or planned community
3 may be conveyed or subjected to a security interest only
4 pursuant to section 515B.3-112, or (ii) part of a cooperative
5 may be conveyed, or all or part of a cooperative may be
6 subjected to a security interest, only pursuant to section
7 515B.3-112;

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

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

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

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

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

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

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

36 (16) exercise any other powers necessary and proper for the

1 governance and operation of the association.

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

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

9 515B.3-103 [~~DEUTY-OF~~ BOARD OF DIRECTORS, OFFICERS DURING,
10 AFTER AND DECLARANT CONTROL.]

11 (a) An association shall be governed by a board of
12 directors. Except as expressly prohibited by the declaration,
13 the articles of incorporation, bylaws, subsection (b), or other
14 provisions of this chapter, the board may act in all instances
15 on behalf of the association. In the performance of their
16 duties, the officers and directors are required to exercise (i)
17 if appointed by the declarant, the care required of fiduciaries
18 of the unit owners and (ii) if elected by the unit owners, the
19 care required of a director by section 302A.251 or 317A.251, as
20 applicable.

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

28 ~~Subject to subsection (d),~~ The declaration may provide
29 for a period of declarant control of the association, during
30 which a declarant, or persons designated by the declarant, may
31 appoint and remove the officers and directors of the
32 association. The maximum period of declarant control may extend
33 from begins on the date of ~~the first conveyance of a unit to a~~
34 ~~unit owner other than a declarant for a period not~~
35 exceeding creation of the common interest community and
36 terminates upon the earliest of the following events: (i) five

1 years after the date of the first conveyance of a unit to a unit
2 owner other than a declarant in the case of a flexible common
3 interest community or three years in the case of any other
4 common interest community;--Regardless-of-any-longer-period
5 provided-in-the-declaration-or-elsewhere,--a-period-of-declarant
6 control-shall-terminate-upon-the-earlier-of-(i)-surrender-of
7 control-by-the-declarant-or-(ii)-60-days-after, (ii) the
8 declarant's voluntary surrender of control by giving written
9 notice to the unit owners pursuant to section 515B.1-115, or
10 (iii) the conveyance of 75 percent of the units to unit owners
11 other than a declarant.

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

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

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

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

34 (1) A majority of the directors shall be unit owners other
35 than a declarant or an affiliate of a declarant, or a natural
36 person designated by a unit owner that is not a natural person.

1 The remaining directors need not be unit owners unless required
2 by the articles of incorporation or bylaws.

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

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

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

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

1 device to evade the requirements of this section.

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

14 (1) personnel matters;

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

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

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

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

35 515B.3-105 [TERMINATION OF DECLARANT'S CONTRACTS, LEASES.]

36 (a) If entered into prior to expiration of the period of

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

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

24 (c) Termination shall be upon no less than 90 days' notice.
 25 Notice of termination shall be given by the association or
 26 master association, as applicable, in accordance with section
 27 515B.1-115; provided, that notice shall be effective only if
 28 given within two years following the termination of the period
 29 of declarant control or the suspension period described in
 30 section 515B.2-121, subsection (c), paragraph (3), as applicable.

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

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

34 (2) in the case of a cooperative, a mortgage or contract
 35 for deed encumbering all real estate constituting the common
 36 interest community, owned by the association, except that if the

1 mortgage or contract for deed contains a contractual obligation
2 involving a type of contract, lease, or license which may be
3 terminated pursuant to subsection (a) or (b), then that
4 contractual obligation may be terminated pursuant to subsection
5 (c); or

6 (3) an agreement between a declarant or an affiliate of a
7 declarant, or a person having authority pursuant to section
8 515B.2-121(c)(3) to appoint the directors of the master
9 association, and any governmental entity, if such agreement is
10 necessary to obtain governmental approvals, provide financing
11 under any type of government program, or provide for
12 governmentally required access, conservation, drainage, or
13 utilities.

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

16 515B.3-106 [BYLAWS; ANNUAL REPORT.]

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

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

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

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

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

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

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

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

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

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

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

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

15 515B.3-110 [VOTING; PROXIES.]

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

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

31 (c) The entire vote on any single issue (except the
32 election of directors), may be by mailed ballots, subject to (i)
33 any prohibition or requirement contained in the articles of
34 incorporation, bylaws, or declaration and (ii) any requirements
35 of the statute under which the association is created. Such a
36 vote shall have the force and effect of a vote taken at a

1 meeting; provided, that the total votes cast are at least equal
2 to the votes required for a quorum. The board shall set a
3 voting period within which the ballots must be returned, which
4 period shall be not less than ten nor more than 30 days after
5 the date of mailing or hand delivery of the ballots to the
6 owners. The board of directors shall provide written notice of
7 the results of the vote to the members within 30 days after the
8 expiration of the voting period. All requirements in this
9 chapter, the declaration or the bylaws for a meeting of the
10 members, or being present in person, shall be deemed satisfied
11 by a vote taken by mail in compliance with the requirements of
12 this section.

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

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

36 (f) No votes allocated to a unit owned by the association

1 may be cast nor counted toward a quorum.

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

4 515B.3-112 [~~CONVEYANCE OR ENCUMBRANCE OF, OR CREATION OF~~
5 SECURITY INTERESTS IN, COMMON ELEMENTS.]

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

18 (b) In a cooperative, unless the declaration provides
19 otherwise, part of a cooperative may be conveyed, or all or a
20 part subjected to a security interest, by the association if
21 persons entitled to cast at least 67 percent of the votes in the
22 association, including 67 percent of the votes allocated to
23 units in which the declarant has no interest, or any larger
24 percentage the declaration specifies, approves that action in
25 writing or at a meeting. If fewer than all of the units or
26 limited common elements are to be conveyed or subjected to a
27 security interest, then all unit owners of those units, or the
28 units to which those limited common elements are allocated, must
29 agree in order to convey those units or limited common elements
30 or subject them to a security interest. The declaration may
31 specify a smaller percentage only if all of the units are
32 restricted to nonresidential use. Any purported conveyance or
33 other voluntary transfer of an entire cooperative is void,
34 unless made pursuant to section 515B.2-119.

35 (c) The association, on behalf of the unit owners, may
36 contract to convey or encumber an interest in the common

1 elements of a common interest community pursuant to this
2 subsection, subject to the required approval. After the
3 approval has been obtained, the association shall have a power
4 of attorney coupled with an interest to effect the conveyance or
5 encumbrance on behalf of all unit owners in the common interest
6 community, including the power to execute deeds, mortgages, or
7 other instruments of conveyance or security. The instrument
8 conveying or creating the interest in the common interest
9 community shall be recorded and shall include as exhibits (i) an
10 affidavit of the secretary of the association certifying that
11 the approval required by this section has been obtained and (ii)
12 a schedule of the names of all unit owners and units in the
13 common interest community as of the date of the approval.

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

21 (e) In the case of a conveyance involving a condominium, or
22 a cooperative in which the unit owners' interests are
23 characterized as real estate, the association shall record,
24 simultaneously with the recording of the instrument of
25 conveyance, an amended CIC plat showing the real estate
26 constituting the common interest community exclusive of the real
27 estate conveyed. In all common interest communities, upon
28 recording of the instrument of conveyance, the declaration, and
29 all rights and obligations arising therefrom, shall be deemed
30 released and terminated as to the real estate conveyed.

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

34 (g) Except as provided in subsection (a), or unless the
35 declaration otherwise provides, a conveyance or encumbrance of
36 common elements pursuant to this section does not affect the

1 priority or validity of preexisting encumbrances.

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

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

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

9 515B.3-113 [INSURANCE.]

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

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

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

35 (b) In the case of a common interest community that
36 contains units, or structures within units, sharing or having

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

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

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

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

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

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

1 under the policy; and

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

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

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

24 (g) An insurer that has issued an insurance policy under
25 this section shall issue certificates or memoranda of insurance,
26 upon request, to any unit owner or secured party. The insurance
27 may not be canceled until 60 days after notice of the proposed
28 cancellation has been mailed to the association, each unit owner
29 and each secured party for an obligation to whom certificates of
30 insurance have been issued.

31 (h) Any portion of the common interest community which is
32 damaged or destroyed as the result of a loss covered by the
33 association's insurance shall be promptly repaired or replaced
34 by the association unless (i) the common interest community is
35 terminated and the association votes not to repair or replace
36 all or part thereof, (ii) repair or replacement would be illegal

1 under any state or local health or safety statute or ordinance,
2 or (iii) 80 percent of the unit owners, including every unit
3 owner and holder of a first mortgage on a unit or assigned
4 limited common element which will not be rebuilt, vote not to
5 rebuild. Subject to subsection (b), the cost of repair or
6 replacement of the common elements in excess of insurance
7 proceeds and reserves shall be paid as a common expense, and the
8 cost of repair of a unit in excess of insurance proceeds shall
9 be paid by the respective unit owner.

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

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

35 (k) The provisions of this section may be varied or waived
36 in the case of a common interest community in which all units

1 are restricted to nonresidential use.

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

4 515B.3-114 [RESERVES; SURPLUS FUNDS.]

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

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

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

20 515B.3-115 [ASSESSMENTS FOR COMMON EXPENSES.]

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

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

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

31 (i) If the declaration so provides, a declarant's
32 liability, and the assessment lien, for the common expense
33 assessments, exclusive of replacement reserves, on any unit
34 owned by the declarant may be limited to 25 percent or more of
35 any assessment, exclusive of replacement reserves, until the
36 unit or any building located in the unit is substantially

1 completed. Substantial completion shall be evidenced by a
2 certificate of occupancy in any jurisdiction that issues the
3 certificate.

4 (ii) If the declaration provides for a reduced assessment
5 pursuant to paragraph (2)(i), the declarant shall be obligated
6 to make up any operating deficit incurred by the association
7 during the period of declarant control.

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

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

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

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

1 (e) Unless otherwise required by the declaration:

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

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

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

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

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

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

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

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

36 (i) If common expense liabilities are reallocated for any

1 purpose authorized by this chapter, common expense assessments
2 and any installment thereof not yet due shall be recalculated in
3 accordance with the reallocated common expense liabilities.

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

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

9 515B.3-116 [LIEN FOR ASSESSMENTS.]

10 (a) The association has a lien on a unit for any assessment
11 levied against that unit from the time the assessment becomes
12 due. If an assessment is payable in installments, the full
13 amount of the assessment is a lien from the time the first
14 installment thereof becomes due. Unless the declaration
15 otherwise provides, fees, charges, late charges, fines and
16 interest charges pursuant to section 515B.3-102(a)(10), (11) and
17 (12) are liens, and are enforceable as assessments, under this
18 section.

19 (b) A lien under this section is prior to all other liens
20 and encumbrances on a unit except (i) liens and encumbrances
21 recorded before the declaration and, in a cooperative, liens and
22 encumbrances which the association creates, assumes, or takes
23 subject to, (ii) any first mortgage encumbering the fee simple
24 interest in the unit, or, in a cooperative, any first security
25 interest encumbering only the unit owner's interest in the unit,
26 and (iii) liens for real estate taxes and other governmental
27 assessments or charges against the unit, and (iv) a master
28 association lien under clause (h). If a first mortgage on a
29 unit is foreclosed, the first mortgage was recorded after June
30 1, 1994, and no owner redeems during the owner's period of
31 redemption provided by chapter 580, 581, or 582, the holder of
32 the sheriff's certificate of sale from the foreclosure of the
33 first mortgage shall take title to the unit subject to a lien in
34 favor of the association for unpaid assessments for common
35 expenses levied pursuant to section 515B.3-115(a), (e)(1) to
36 (3), (f), and (i) which became due, without acceleration, during

1 the six months immediately preceding the first day following the
2 end of the owner's period of redemption. If a first security
3 interest encumbering a unit owner's interest in a cooperative
4 unit which is personal property is foreclosed, the secured party
5 or the purchaser at the sale shall take title to the unit
6 subject to unpaid assessments for common expenses levied
7 pursuant to section 515B.3-115(a), (e)(1) to (3), (f), and (i)
8 which became due, without acceleration, during the six months
9 immediately preceding the first day following either the
10 disposition date pursuant to section 336.9-610 or the date on
11 which the obligation of the unit owner is discharged pursuant to
12 section 336.9-622. This subsection shall not affect the
13 priority of mechanics' liens.

14 (c) Recording of the declaration constitutes record notice
15 and perfection of any lien under this section, and no further
16 recordation of any notice of or claim for the lien is required.

17 (d) Proceedings to enforce an assessment lien shall be
18 instituted within three years after the last installment of the
19 assessment becomes payable, or shall be barred.

20 (e) The unit owner of a unit at the time an assessment is
21 due shall be personally liable to the association for payment of
22 the assessment levied against the unit. If there are multiple
23 owners of the unit, they shall be jointly and severally liable.

24 (f) This section does not prohibit actions to recover sums
25 for which subsection (a) creates a lien nor prohibit an
26 association from taking a deed in lieu of foreclosure. ~~The
27 commencement-of-an-action-to-recover-the-sums-is-not-an-election
28 of-remedies-if-it-is-dismissed-before-commencement-of
29 foreclosure-of-the-lien-provided-for-by-this-section.~~

30 (g) The association shall furnish to a unit owner or the
31 owner's authorized agent upon written request of the unit owner
32 or the authorized agent a statement setting forth the amount of
33 unpaid assessments currently levied against the owner's unit.
34 If the unit owner's interest is real estate, the statement shall
35 be in recordable form. The statement shall be furnished within
36 ten business days after receipt of the request and is binding on

1 the association and every unit owner.

2 (h) The association's lien may be foreclosed as provided in
3 this subsection.

4 (1) In a condominium or planned community, the
5 association's lien may be foreclosed in a like manner as a
6 mortgage containing a power of sale pursuant to chapter 580, or
7 by action pursuant to chapter 581. The association shall have a
8 power of sale to foreclose the lien pursuant to chapter 580.

9 (2) In a cooperative whose unit owners' interests are real
10 estate, the association's lien shall be foreclosed in a like
11 manner as a mortgage on real estate as provided in paragraph (1).

12 (3) In a cooperative whose unit owners' interests in the
13 units are personal property, the association's lien shall be
14 foreclosed in a like manner as a security interest under article
15 9 of chapter 336. In any disposition pursuant to section
16 336.9-610 or retention pursuant to sections 336.9-620 to
17 336.9-622, the rights of the parties shall be the same as those
18 provided by law, except (i) notice of sale, disposition, or
19 retention shall be served on the unit owner 90 days prior to
20 sale, disposition, or retention, (ii) the association shall be
21 entitled to its reasonable costs and attorney fees not exceeding
22 the amount provided by section 582.01, subdivision 1a, (iii) the
23 amount of the association's lien shall be deemed to be adequate
24 consideration for the unit subject to disposition or retention,
25 notwithstanding the value of the unit, and (iv) the notice of
26 sale, disposition, or retention shall contain the following
27 statement in capital letters with the name of the association or
28 secured party filled in:

29 "THIS IS TO INFORM YOU THAT BY THIS NOTICE (fill in name of
30 association or secured party) HAS BEGUN PROCEEDINGS UNDER
31 MINNESOTA STATUTES, CHAPTER 515B, TO FORECLOSE ON YOUR INTEREST
32 IN YOUR UNIT FOR THE REASON SPECIFIED IN THIS NOTICE. YOUR
33 INTEREST IN YOUR UNIT WILL TERMINATE 90 DAYS AFTER SERVICE OF
34 THIS NOTICE ON YOU UNLESS BEFORE THEN:

35 (a) THE PERSON AUTHORIZED BY (fill in the name of
36 association or secured party) AND DESCRIBED IN THIS NOTICE TO

1 RECEIVE PAYMENTS RECEIVES FROM YOU:

2 (1) THE AMOUNT THIS NOTICE SAYS YOU OWE; PLUS

3 (2) THE COSTS INCURRED TO SERVE THIS NOTICE ON YOU; PLUS

4 (3) \$500 TO APPLY TO ATTORNEYS FEES ACTUALLY EXPENDED OR
5 INCURRED; PLUS

6 (4) ANY ADDITIONAL AMOUNTS FOR YOUR UNIT BECOMING DUE TO
7 (fill in name of association or secured party) AFTER THE DATE OF
8 THIS NOTICE; OR

9 (b) YOU SECURE FROM A DISTRICT COURT AN ORDER THAT THE
10 FORECLOSURE OF YOUR RIGHTS TO YOUR UNIT BE SUSPENDED UNTIL YOUR
11 CLAIMS OR DEFENSES ARE FINALLY DISPOSED OF BY TRIAL, HEARING, OR
12 SETTLEMENT. YOUR ACTION MUST SPECIFICALLY STATE THOSE FACTS AND
13 GROUNDS THAT DEMONSTRATE YOUR CLAIMS OR DEFENSES.

14 IF YOU DO NOT DO ONE OR THE OTHER OF THE ABOVE THINGS
15 WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE, YOUR OWNERSHIP
16 RIGHTS IN YOUR UNIT WILL TERMINATE AT THE END OF THE PERIOD, YOU
17 WILL LOSE ALL THE MONEY YOU HAVE PAID FOR YOUR UNIT, YOU WILL
18 LOSE YOUR RIGHT TO POSSESSION OF YOUR UNIT, YOU MAY LOSE YOUR
19 RIGHT TO ASSERT ANY CLAIMS OR DEFENSES THAT YOU MIGHT HAVE, AND
20 YOU WILL BE EVICTED. IF YOU HAVE ANY QUESTIONS ABOUT THIS
21 NOTICE, CONTACT AN ATTORNEY IMMEDIATELY."

22 (4) In any foreclosure pursuant to chapter 580, 581, or
23 582, the rights of the parties shall be the same as those
24 provided by law, except (i) the period of redemption for unit
25 owners shall be six months from the date of sale or a lesser
26 period authorized by law, (ii) in a foreclosure by advertisement
27 under chapter 580, the foreclosing party shall be entitled to
28 costs and disbursements of foreclosure and attorneys fees
29 authorized by the declaration or bylaws, notwithstanding the
30 provisions of section 582.01, subdivisions 1 and 1a, (iii) in a
31 foreclosure by action under chapter 581, the foreclosing party
32 shall be entitled to costs and disbursements of foreclosure and
33 attorneys fees as the court shall determine, and (iv) the amount
34 of the association's lien shall be deemed to be adequate
35 consideration for the unit subject to foreclosure,
36 notwithstanding the value of the unit.

1 (i) If a holder of a sheriff's certificate of sale, prior
2 to the expiration of the period of redemption, pays any past due
3 or current assessments, or any other charges lienable as
4 assessments, with respect to the unit described in the sheriff's
5 certificate, then the amount paid shall be a part of the sum
6 required to be paid to redeem under section 582.03.

7 (j) In a cooperative, following-foreclosure if the unit
8 owner fails to redeem before the expiration of the redemption
9 period in a foreclosure of the association's assessment lien,
10 the association may bring an action for eviction against the
11 unit owner and any persons in possession of the unit, and in
12 that case section 504B.291 shall not apply.

13 (k) An association may assign its lien rights in the same
14 manner as any other secured party.

15 Sec. 31. Minnesota Statutes 2004, section 515B.3-117, is
16 amended to read:

17 515B.3-117 [OTHER LIENS.]

18 (a) Except in a cooperative and except as otherwise
19 provided in this chapter or in a security instrument, an
20 individual unit owner may have the unit owner's unit released
21 from a lien if the unit owner pays the lienholder the portion of
22 the amount which the lien secures that is attributable to the
23 unit. Upon the receipt of payment, the lienholder shall
24 promptly deliver to the unit owner a recordable partial
25 satisfaction and release of lien releasing the unit from the
26 lien. The release shall be deemed to include a release of any
27 rights in the common elements appurtenant to the unit. The
28 portion of the amount which a lien secures that is attributable
29 to the unit shall be equal to the total amount which the lien
30 secures multiplied by a percentage calculated by dividing the
31 common expense liability attributable to the unit by the common
32 expense liability attributable to all units against which the
33 lien has been recorded, or in the case of a lien under
34 subsection (b), the units against which the lien is permitted or
35 required to be recorded. At the request of a lien claimant or
36 unit owners, the association shall provide a written statement

1 of the percentage of common expense liability attributable to
2 all units. After a unit owner's payment pursuant to this
3 section, the association may not assess the unit for any common
4 expense incurred thereafter in connection with the satisfaction
5 or defense against the lien.

6 (b) Labor performed or materials furnished for the
7 improvement of a unit shall be the basis for the recording of a
8 lien against that unit pursuant to the provisions of chapter 514
9 but shall not be the basis for the recording of a lien against
10 the common elements. Labor performed or materials furnished for
11 the improvement of common elements, for which a lien may be
12 recorded under chapter 514, if duly authorized by the
13 association, shall be deemed to be performed or furnished with
14 the express consent of each unit owner, and shall be perfected
15 by recording a lien against all the units in the common interest
16 ~~community pursuant to the provisions of chapter 514~~, but shall
17 not be the basis for the recording of a lien against the common
18 elements except in the case of a condominium on registered land,
19 in which case a lien must be filed pursuant to section 508.351,
20 subdivision 3, or 508A.351, subdivision 3. Where a lien is
21 recorded against the units for labor performed or material
22 furnished for the improvement of common elements, the
23 association shall be deemed to be the authorized agent of the
24 unit owners for purposes of receiving the notices required under
25 sections 514.011 and 514.08, subdivision 1, clause (2).

26 (c) A security interest in a cooperative whose unit owners'
27 interests in the units are personal property shall be perfected
28 by recording a financing statement in the UCC filing section of
29 the office of the recording officer for the county in which the
30 unit is located. In any disposition by a secured party pursuant
31 to section 336.9-610 or retention pursuant to sections 336.9-620
32 to 336.9-622, the rights of the parties shall be the same as
33 those provided by law, subject to the exceptions and
34 requirements set forth in section 515B.3-116(h)(3), and except
35 that the unit owner has the right to reinstate the debt owing to
36 the secured party by paying to the secured party, prior to the

1 effective date of the disposition or retention, the amount which
2 would be required to reinstate the debt under section 580.30 if
3 the unit were wholly real estate.

4 Sec. 32. Minnesota Statutes 2004, section 515B.3-120, is
5 amended to read:

6 515B.3-120 [DECLARANT DUTIES; TURNOVER OF RECORDS.]

7 (a) During any period of declarant control pursuant to
8 section 515B.3-103(c), declarant and any of its representatives
9 who are acting as officers or directors of the association shall:

10 (1) cause the association to be operated and administered
11 in accordance with its articles of incorporation and bylaws, the
12 declaration and applicable law;

13 (2) be subject to all fiduciary obligations and obligations
14 of good faith applicable to any persons serving a corporation in
15 that capacity;

16 (3) cause the association's funds to be maintained in a
17 separate bank account or accounts solely in the association's
18 name, from and after the date of creation of the association;
19 and

20 (4) cause the association to maintain complete and accurate
21 records in compliance with section 515B.3-118.

22 (b) At such time as any period of declarant control
23 terminates, declarant shall cause to be delivered to the board
24 elected by the unit owners exclusive control of all funds of the
25 association, all contracts and agreements to which are binding
26 on the association was-or-is-a-party, all corporate records of
27 the association including financial records, copies of all CIC
28 plats and supplementary CIC plats, personal property owned or
29 represented to be owned by the association, assignments of all
30 declarant's rights and interests under the warranties if not in
31 the name of the association, and, to the extent they are in the
32 control or possession of the declarant, copies of all plans and
33 specifications in its control or possession relating to the
34 common-interest-community buildings and related
35 improvements which are part of the common elements, and
36 operating manuals and warranty materials relating to any

1 equipment or personal property utilized in the operation of the
 2 common interest community. The declarant's obligation to turn
 3 over the foregoing items shall continue to include additional
 4 new or changed items in its possession or control.

5 (c) ~~A declarant-in-control~~ person entitled to appoint the
 6 directors of a master association pursuant to section
 7 515B.2-121(c)(3), and the master association's officers and
 8 directors, shall be subject to the same duties and obligations
 9 with respect to the master association as are described in
 10 subsections (a), and (b) and (c) to the extent applicable.
 11 ~~The period of declarant control of the master association shall~~
 12 ~~terminate as provided in section 515B.2-121(f).~~ A master
 13 association may not be used to circumvent or avoid any
 14 obligation or restriction imposed on a declarant or its
 15 affiliates by this chapter.

16 Sec. 33. Minnesota Statutes 2004, section 515B.4-101, is
 17 amended to read:

18 515B.4-101 [APPLICABILITY; DELIVERY OF DISCLOSURE
 19 STATEMENT.]

20 (a) Sections 515B.4-101 through 515B.4-118 apply to all
 21 units subject to this chapter, except as provided in subsection
 22 (c) or as modified or waived by written agreement of purchasers
 23 of a unit which is restricted to nonresidential use.

24 (b) Subject to subsections (a) and (c), a declarant who
 25 offers a unit to a purchaser shall deliver to the purchaser a
 26 current disclosure statement which complies with the
 27 requirements of section 515B.4-102. The disclosure statement
 28 shall include any material amendments to the disclosure
 29 statement made prior to the conveyance of the unit to the
 30 purchaser. The declarant shall be liable to the purchaser to
 31 whom it delivered the disclosure statement for any false or
 32 misleading statement set forth therein or for any omission of a
 33 material fact therefrom.

34 (c) Neither a disclosure statement nor a resale disclosure
 35 certificate need be prepared or delivered in the case of:

36 (1) a gratuitous transfer;

- 1 (2) a transfer pursuant to a court order;
- 2 (3) a transfer to a government or governmental agency;
- 3 (4) a transfer to a secured party by foreclosure or deed in
4 lieu of foreclosure;
- 5 (5) an option to purchase a unit, until exercised;
- 6 (6) a transfer to a person who "controls" or is "controlled
7 by," the grantor as those terms are defined with respect to a
8 declarant under section 515B.1-103(2);
- 9 (7) a transfer by inheritance;
- 10 (8) a transfer of special declarant rights under section
11 515B.3-104; or
- 12 (9) a transfer in connection with a change of form of
13 common interest community under section 515B.2-123.

14 (d) A purchase agreement for a unit shall contain the
15 following notice: "The following notice is required by
16 Minnesota Statutes. The purchaser is entitled to receive a
17 disclosure statement or resale disclosure certificate, as
18 applicable. The disclosure statement or resale disclosure
19 certificate contains important information regarding the common
20 interest community and the purchaser's cancellation rights."

21 (e) A purchase agreement for the sale, to the initial
22 occupant, of a platted lot or other parcel of real estate (i)
23 which is subject to a master declaration, (ii) which is intended
24 for residential occupancy, and (iii) which does not and is not
25 intended to constitute a unit, shall contain the following
26 notice: "The following notice is required by Minnesota
27 Statutes: The real estate to be conveyed under this agreement
28 is or will be subject to a master association as defined in
29 Minnesota Statutes, chapter 515B. The master association is
30 obligated to provide to the purchaser, pursuant to Minnesota
31 Statutes, section 515B.4-102(c), upon the purchaser's request, a
32 statement containing the information required by Minnesota
33 Statutes, section 515B.4-102(a)(20), with respect to the master
34 association, prior to the time that the purchaser signs a
35 purchase agreement for the real estate. The statement contains
36 important information regarding the master association and the

1 purchaser's obligations thereunder." A claim by a purchaser
2 based upon a failure to include the foregoing notice in a
3 purchase agreement:

4 (1) shall be limited to legal, and not equitable, remedies;

5 (2) shall be barred unless it is commenced within the time
6 period specified in section 515B.4-115(a); or

7 (3) may be waived by a separate written document signed by
8 the seller and purchaser.

9 Sec. 34. Minnesota Statutes 2004, section 515B.4-102, is
10 amended to read:

11 515B.4-102 [DISCLOSURE STATEMENT; GENERAL PROVISIONS.]

12 (a) A disclosure statement shall fully and accurately
13 disclose:

14 (1) the name and, if available, the number of the common
15 interest community;

16 (2) the name and principal address of the declarant;

17 (3) the number of units which the declarant has the right
18 to include in the common interest community and a statement that
19 the common interest community is either a condominium,
20 cooperative, or planned community;

21 (4) a general description of the common interest community,
22 including, at a minimum, (i) the number of buildings, (ii) the
23 number of dwellings per building, (iii) the type of
24 construction, (iv) whether the common interest community
25 involves new construction or rehabilitation, (v) whether any
26 building was wholly or partially occupied, for any purpose,
27 before it was added to the common interest community and the
28 nature of the occupancy, and (vi) a general description of any
29 roads, trails, or utilities that are located on the common
30 elements and that the association or a master association will
31 be required to maintain;

32 (5) declarant's schedule of commencement and completion of
33 construction of any buildings and other improvements that the
34 declarant is obligated to build pursuant to section 515B.4-117;

35 (6) any expenses or services, not reflected in the budget,
36 that the declarant pays or provides, which may become a common

1 expense; the projected common expense attributable to each of
2 those expenses or services; and an explanation of declarant's
3 limited assessment liability under section 515B.3-115,
4 subsection (b);

5 (7) any initial or special fee due from the purchaser to
6 the declarant or the association at closing, together with a
7 description of the purpose and method of calculating the fee;

8 (8) identification of any liens, defects, or encumbrances
9 which will continue to affect the title to a unit or to any real
10 property owned by the association after the contemplated
11 conveyance;

12 (9) a description of any financing offered or arranged by
13 the declarant;

14 (10) a statement as to whether application has been made
15 for any project approvals for the common interest community from
16 the Federal National Mortgage Association (FNMA), Federal Home
17 Loan Mortgage Corporation (FHLMC), Department of Housing and
18 Urban Development (HUD) or Department of Veterans Affairs (VA),
19 and which, if any, such final approvals have been received;

20 (11) the terms of any warranties provided by the declarant,
21 including copies of ~~chapter-327A7~~ and sections 515B.4-112
22 through 515B.4-115, and any other applicable statutory
23 warranties, and a statement of any limitations on the
24 enforcement of the applicable warranties or on damages;

25 (12) a statement that: (i) within ten days after the
26 receipt of a disclosure statement, a purchaser may cancel any
27 contract for the purchase of a unit from a declarant; provided,
28 that the right to cancel terminates upon the purchaser's
29 voluntary acceptance of a conveyance of the unit from the
30 declarant; (ii) if a purchaser receives a disclosure statement
31 more than ten days before signing a purchase agreement, the
32 purchaser cannot cancel the purchase agreement; and (iii) if a
33 declarant obligated to deliver a disclosure statement fails to
34 deliver a disclosure statement which substantially complies with
35 this chapter to a purchaser to whom a unit is conveyed, the
36 declarant shall be liable to the purchaser as provided in

1 section 515B.4-106(d);

2 (13) a statement disclosing to the extent of the
3 declarant's or an affiliate of a declarant's actual knowledge,
4 after reasonable inquiry, any unsatisfied judgments or lawsuits
5 to which the association is a party, and the status of those
6 lawsuits which are material to the common interest community or
7 the unit being purchased;

8 (14) a statement (i) describing the conditions under which
9 earnest money will be held in and disbursed from the escrow
10 account, as set forth in section 515B.4-109, (ii) that the
11 earnest money will be returned to the purchaser if the purchaser
12 cancels the contract pursuant to section 515B.4-106, and (iii)
13 setting forth the name and address of the escrow agent;

14 (15) a detailed description of the insurance coverage
15 provided by the association for the benefit of unit owners,
16 including a statement as to which, if any, of the items referred
17 to in section 515B.3-113, subsection (b), are insured by the
18 association;

19 (16) any current or expected fees or charges, other than
20 assessments for common expenses, to be paid by unit owners for
21 the use of the common elements or any other improvements or
22 facilities;

23 (17) the financial arrangements, including any
24 contingencies, which have been made to provide for completion of
25 all improvements that the declarant is obligated to build
26 pursuant to section 515B.4-118, or a statement that no such
27 arrangements have been made;

28 (18) in a cooperative: (i) whether the unit owners will be
29 entitled for federal and state tax purposes, to deduct payments
30 made by the association for real estate taxes and interest paid
31 to the holder of a security interest encumbering the
32 cooperative; and (ii) a statement as to the effect on the unit
33 owners if the association fails to pay real estate taxes or
34 payments due the holder of a security interest encumbering the
35 cooperative; and (iii) the principal amount and a general
36 description of the terms of any blanket mortgage, contract for

1 deed, or other blanket security instrument encumbering the
2 cooperative property;

3 (19) a statement: (i) that real estate taxes for the unit
4 or any real property owned by the association are not delinquent
5 or, if there are delinquent real estate taxes, describing the
6 property for which the taxes are delinquent, stating the amount
7 of the delinquent taxes, interest and penalties, and stating the
8 years for which taxes are delinquent, and (ii) setting forth the
9 amount of real estate taxes, including the amount of any special
10 assessment certified for payment with the real estate taxes, due
11 and payable with respect to the unit in the year in which the
12 disclosure statement is given, if real estate taxes have been
13 separately assessed against the unit;

14 (20) if the association or the purchaser of the unit will
15 be a member of a master association, a statement to that effect,
16 and all of the following information with respect to the master
17 association: (i) a copy of the master declaration, ~~if any~~
18 ~~{other-than-any-CIC-plot}~~, the articles of incorporation,
19 bylaws, and rules and regulations for the master association,
20 together with any amendments thereto; (ii) the name, address and
21 general description of the master association, including a
22 general description of any other association, unit owners, or
23 other persons which are or may become members; (iii) a
24 description of any nonresidential use permitted on any property
25 subject to the master association; (iv) a statement as to the
26 estimated maximum number of associations, unit owners or other
27 persons which may become members of the master association, and
28 the degree and period of control of the master association by a
29 declarant or other person; (v) a description of any facilities
30 intended for the benefit of the members of the master
31 association and not located on property owned or controlled by a
32 member or the master association; (vi) the financial
33 arrangements, including any contingencies, which have been made
34 to provide for completion of the facilities referred to in
35 subsection (v), or a statement that no arrangements have been
36 made; (vii) any current balance sheet of the master association

1 and a projected or current annual budget, as applicable, which
2 budget shall include with respect to the master association
3 those items in paragraph (23), clauses (i) through ~~(iv)~~ (iii),
4 and the projected monthly common expense assessment for each
5 type of unit, lot, or other parcel of real estate which is or is
6 planned to be subject to assessment; (viii) a description of any
7 expenses or services not reflected in the budget, paid for or
8 provided by a declarant or a person executing the master
9 declaration, which may become an expense of the master
10 association in the future; (ix) a description of any powers
11 delegated to and accepted by the master association pursuant to
12 section 515B.2-121(f)(2); (x) identification of any liens,
13 defects or encumbrances that will continue to affect title to
14 property owned or operated by the master association for the
15 benefit of its members; (xi) the terms of any warranties
16 provided by any person for construction of facilities in which
17 the members of the master association have or may have an
18 interest, and any known defects in the facilities which would
19 violate the standards described in section 515B.4-112(b); (xii)
20 a statement disclosing, ~~to-the-extent-of-the-declarant's~~
21 ~~knowledge,~~ after inquiry of the master association, any
22 unsatisfied judgments or lawsuits to which the master
23 association is a party, and the status of those lawsuits which
24 are material to the master association; (xiii) a description of
25 any insurance coverage provided for the benefit of its members
26 by the master association; and (xiv) any current or expected
27 fees or charges, other than assessments by the master
28 association, to be paid by members of the master association for
29 the use of any facilities intended for the benefit of the
30 members;

31 (21) a statement as to whether the unit will be
32 substantially completed at the time of conveyance to a
33 purchaser, and if not substantially completed, who is
34 responsible to complete and pay for the construction of the
35 unit;

36 (22) a copy of the declaration and any amendments thereto,

1 (exclusive of the CIC plat), any other recorded covenants,
2 conditions restrictions, and reservations affecting the common
3 interest community; the articles of incorporation, bylaws and
4 any rules or regulations of the association; any agreement
5 excluding or modifying any implied warranties; any agreement
6 reducing the statute of limitations for the enforcement of
7 warranties; any contracts or leases to be signed by purchaser at
8 closing; and a brief narrative description of any (i) contracts
9 or leases that are or may be subject to cancellation by the
10 association under section 515B.3-105 and (ii) any material
11 agreements entered into between the declarant and a governmental
12 entity that affect the common interest community; and

13 (23) any-current a balance sheet for the association,
14 current within 90 days; a projected annual budget for the
15 association for-the-year-in-which-the-first-unit-is-conveyed-to
16 a-purchaser,--and-thereafter-the-current-annual-budget-of-the
17 association, and a statement identifying the party responsible
18 for the preparation of the budget. The budget shall assume that
19 all units intended to be included in the common interest
20 community, based upon the declarant's good faith estimate, have
21 been subjected to the declaration; provided, that additional
22 budget portrayals based upon a lesser number of units are
23 permitted. The budget shall include, without limitation: (i) a
24 statement of the amount included in the budget as a reserve for
25 maintenance,--repair-and replacement; (ii) a statement of any
26 other reserves; (iii) the projected common expense for each
27 category of expenditures for the association; and (iv) the
28 projected monthly common expense assessment for each type of
29 unit; and (v) a footnote or other reference to those components
30 of the common interest community the maintenance, repair, or
31 replacement of which the budget assumes will be funded by
32 assessments under section 515B.3-115(e) rather than by
33 assessments included in the association's annual budget, and a
34 statement referencing section 515B.3-115(e)(1) or (2) as the
35 source of funding. If, based upon the association's then
36 current budget, the monthly common expense assessment for the

1 unit at the time of conveyance to the purchaser is anticipated
2 to exceed the monthly assessment stated in the budget, a
3 statement to such effect shall be included.

4 (b) A declarant shall promptly amend the disclosure
5 statement to reflect any material change in the information
6 required by this chapter.

7 (c) The master association, within ten days after a request
8 by a declarant, ~~or any~~ a holder of declarant rights, or a
9 purchaser referred to in section 515B.4-101(e), or the
10 authorized representative of any of them, shall furnish the
11 information required to be provided by subsection (a)(20). A
12 declarant or other person who provides information pursuant to
13 subsection (a)(20) is not liable to the purchaser for any
14 erroneous information if the declarant or other person: (i) is
15 not an affiliate of or related in any way to a person authorized
16 to appoint the master association board pursuant to section
17 515B.2-121(c)(3), and (ii) has no actual knowledge that the
18 information is incorrect.

19 Sec. 35. Minnesota Statutes 2004, section 515B.4-105, is
20 amended to read:

21 515B.4-105 [COMMON INTEREST COMMUNITY WITH BUILDING ONCE
22 OCCUPIED.]

23 The disclosure statement of a common interest community
24 containing any building that was at any time before the creation
25 of the common interest community wholly or partially occupied,
26 for any purpose, by persons other than purchasers or persons who
27 occupied with the consent of purchasers, shall contain, in
28 addition to the information required by sections 515B.4-102,
29 515B.4-103 and 515B.4-104:

30 (1) a professional opinion prepared by a registered
31 professional architect or engineer, licensed in this state,
32 describing the present current condition of all structural
33 components, and mechanical and electrical installations,
34 material to the use and enjoyment of the building, to the extent
35 reasonably ascertainable without disturbing the improvements or
36 dismantling the equipment, which will be in place or be

1 operational at the time of conveyance of the first unit to a
2 person other than a declarant;

3 (2) a statement by the declarant of the expected useful
4 life of each item reported on in paragraph (1) or a statement
5 that no representations are made in that regard; and

6 (3) a list of any outstanding notices of uncured violations
7 of building code or other municipal regulations, together with
8 the estimated cost of curing those violations.

9 Sec. 36. Minnesota Statutes 2004, section 515B.4-106, is
10 amended to read:

11 515B.4-106 [PURCHASER'S RIGHT TO CANCEL.]

12 (a) A person required to deliver a disclosure statement
13 pursuant to section 515B.4-101(b) shall provide at least one of
14 the purchasers of the unit with a copy of the disclosure
15 statement and all amendments thereto before conveyance of the
16 unit. If a purchaser is not given a disclosure statement more
17 than five ten days before execution of the purchase agreement,
18 the purchaser may, before conveyance, cancel the purchase
19 agreement within five ten days after first receiving the
20 disclosure statement. If a purchaser is given the disclosure
21 statement more than five ten days before execution of the
22 purchase agreement, the purchaser may not cancel the purchase
23 agreement pursuant to this section. Except as expressly
24 provided in this chapter, the five-day ten-day rescission period
25 cannot be waived.

26 (b) If an amendment to the disclosure statement materially
27 and adversely affects a purchaser, then the purchaser shall have
28 five ten days after delivery of the amendment to cancel the
29 purchase agreement in accordance with this section.

30 (c) If a purchaser elects to cancel a purchase agreement
31 pursuant to this section, the purchaser may do so by giving
32 notice thereof pursuant to section 515B.1-115. Cancellation is
33 without penalty, and all payments made by the purchaser before
34 cancellation shall be refunded promptly. Notwithstanding
35 anything in this section to the contrary, the purchaser's
36 cancellation rights under this section terminate upon the

1 purchaser's acceptance of a conveyance of the unit.

2 (d) If a declarant obligated to deliver a disclosure
3 statement fails to deliver to the purchaser a disclosure
4 statement which substantially complies with this chapter, the
5 declarant shall be liable to the purchaser in the amount of
6 \$1,000, in addition to any damages or other amounts recoverable
7 under this chapter or otherwise. Any action brought under this
8 subsection shall be commenced within the time period specified
9 in section 515B.4-115, subsection (a).

10 Sec. 37. Minnesota Statutes 2004, section 515B.4-107, is
11 amended to read:

12 515B.4-107 [RESALE OF UNITS.]

13 (a) In the event of a resale of a unit by a unit owner
14 other than a declarant, unless exempt under section
15 515B.4-101(c), the unit owner shall furnish to a purchaser,
16 before execution of any purchase agreement for a unit or
17 otherwise before conveyance, the following documents relating to
18 the association or to the master association, if applicable:

19 (1) copies of the declaration (other than any CIC plat),
20 the articles of incorporation and bylaws, any rules and
21 regulations, and any amendments thereto or supplemental
22 declarations;

23 (2) the organizational and operating documents relating to
24 the master association, if any; and

25 (3) a resale disclosure certificate from the association
26 dated not more than 90 days prior to the date of the purchase
27 agreement or the date of conveyance, whichever is earlier,
28 containing the information set forth in subsection (b).

29 (b) The resale disclosure certificate must be in
30 substantially the following form:

31 COMMON INTEREST COMMUNITY

32 RESALE DISCLOSURE CERTIFICATE

33 Name of Common Interest Community:.....
34 Name of Association:.....
35 Address of Association:.....
36 Unit Number(s) (include principal unit and any garage, storage,

1 or other auxiliary unit(s)):

2 The following information is furnished by the association
3 named above according to Minnesota Statutes, section 515B.4-107.

4 1. There is no right of first refusal or other restraint
5 on the free alienability of the above unit(s) contained in the
6 declaration, bylaws, rules and regulations, or any amendment to
7 them, except as follows:

8
9
10

11 2. The following periodic installments of common expense
12 assessments and special assessments are payable with respect to
13 the above unit(s):

14 a. Annual assessment
15 installments: \$..... Due:

16 b. Special assessment
17 installments: \$..... Due:

18 c. Unpaid assessments, fines, or other charges:
19 (1) Annual \$.....
20 (2) Special \$.....
21 (3) Fines \$.....
22 (4) Other Charges \$.....

23 d. The association has/has not (strike one) approved
24 a plan for levying certain common expense
25 assessments against fewer than all the units
26 according to Minnesota Statutes, section 515B.3-115,
27 subsection (e). If a plan is approved, a description
28 of the plan is attached to this certificate.

29 3. In addition to the amounts due under paragraph 2, the
30 following additional fees or charges other than assessments are
31 payable by unit owners (include late payment charges, user fees,
32 etc.):
33
34

35 4. There are no extraordinary expenditures approved by the
36 association, and not yet assessed, for the current and two

1 succeeding fiscal years, except as follows:.....
2
3

4 5. The association has reserved the following amounts for
5 maintenance, repair, or replacement:.....
6
7

8 The following portions of these reserves are designated for the
9 following specified projects or uses:.....
10

11 6. The following documents are furnished with this
12 certificate according to statute:

13 a. The most recent regularly prepared balance sheet and
14 income and expense statement of the association.

15 b. The current budget of the association.

16 7. There are no unsatisfied judgments against the
17 association, except as follows (identify creditor and amount):..
18
19

20 8. There are no pending lawsuits to which the association
21 is a party, except as follows (identify and summarize status):..
22
23
24

25 9. Description of insurance coverages:

26 a. The association provides the following insurance
27 coverage for the benefit of unit owners: (Reference may be made
28 to applicable sections of the declaration or bylaws; however,
29 any additional coverages should be described in this space)

30
31
32

33 b. The following described fixtures, decorating items, or
34 construction items within the unit referred to in Minnesota
35 Statutes, section 515B.3-113, subsection (b), are insured by the
36 association (check as applicable):

1 or otherwise before conveyance, copies of the following
 2 documents relating to the association or to the master
 3 association (as applicable): the declaration (other than any
 4 common interest community plat), articles of incorporation,
 5 bylaws, rules and regulations (if any), and any amendments to
 6 these documents. Receipt of the foregoing documents, and the
 7 resale disclosure certificate, is acknowledged by the
 8 undersigned buyer(s).

9 Dated:
 10 (Buyer)
 11
 12 (Buyer)

13 (c) If the association is subject to a master association
 14 to which has been delegated the association's powers under
 15 section 515B.3-102(a)(2), then the financial information
 16 required to be disclosed under subsection (b) may be disclosed
 17 on a consolidated basis.

18 (d) The association, within ten days after a request by a
 19 unit owner, or the unit owner's authorized representative, shall
 20 furnish the certificate required in subsection (a). The
 21 association may charge a reasonable fee for furnishing the
 22 certificate and any association documents related thereto. A
 23 unit owner providing a certificate pursuant to subsection (a) is
 24 not liable to the purchaser for any erroneous information
 25 provided by the association and included in the certificate.

26 (e) A purchaser is not liable for any unpaid common expense
 27 assessments, including special assessments, if any, not set
 28 forth in the certificate required in subsection (a). A
 29 purchaser is not liable for the amount by which the annual or
 30 special assessments exceed the amount of annual or special
 31 assessments stated in the certificate for assessments payable in
 32 the year in which the certificate was given, except to the
 33 extent of any increases subsequently approved in accordance with
 34 the declaration or bylaws. A unit owner is not liable to a
 35 purchaser for the failure of the association to provide the
 36 certificate, or a delay by the association in providing the

1 certificate in a timely manner.

2 Sec. 38. Minnesota Statutes 2004, section 515B.4-109, is
3 amended to read:

4 515B.4-109 [ESCROW DEPOSITS.]

5 All earnest money paid or deposits made in connection with
6 the purchase or reservation of units from or with a declarant
7 shall be deposited in an escrow account controlled jointly by
8 the declarant and the purchaser, or controlled by a licensed
9 title insurance company or agent thereof, an attorney
10 representing either the declarant or the purchaser, a licensed
11 real estate broker ~~or~~, an independent bonded escrow company, or
12 a governmental agency or instrumentality. The escrow account
13 shall be in an institution whose deposits are insured by a
14 governmental agency or instrumentality. The money or deposits
15 shall be held in the escrow account until (i) delivered to the
16 declarant at closing; (ii) delivered to the declarant because of
17 the purchaser's default under a reservation agreement or a
18 contract to purchase the unit; (iii) delivered to the purchaser
19 pursuant to the provisions of section 515B.4-106 or the
20 provisions of a reservation agreement or a contract to purchase;
21 or (iv) delivered for payment of construction costs pursuant to
22 a written agreement between the declarant and the purchaser.

23 Sec. 39. Minnesota Statutes 2004, section 515B.4-111, is
24 amended to read:

25 515B.4-111 [CONVERSION PROPERTY.]

26 (a) A unit owner of a unit occupied for residential use in
27 a common interest community containing conversion property shall
28 not, for a period of one year following the recording of the
29 declaration creating the common interest community, require any
30 occupant of the unit to vacate the unit unless the unit owner
31 gives notice to the occupant in the manner described in this
32 section. The notice shall be given no later than 120 days
33 before the occupant is required to vacate the unit. The notice
34 shall be sufficient as to all occupants of a unit if it is hand
35 delivered or mailed to the unit to be vacated, addressed to the
36 occupants thereof. If the holder of the lessee's interest in

1 the unit has given the unit owner an address different than that
2 of the unit, then the notice shall also be given to the holder
3 of the lessee's interest at the designated address. The notice
4 shall ~~satisfy~~ comply with the following requirements:

5 (1) The notice shall set forth generally the rights
6 conferred by this section.

7 (2) The notice shall have attached to the notice intended
8 for the holder of the lessee's interest a form of purchase
9 agreement setting forth the terms of sale contemplated by
10 subsection (d) and a statement of any significant restrictions
11 on the use and occupancy of the unit to be imposed by the
12 declarant.

13 (3) The notice shall state that the occupants of the
14 residential unit may demand to be given 60 additional days
15 before being required to vacate, if any of them, or any person
16 residing with them, is (i) 62 years of age or older, (ii) a
17 person with a disability as defined in section 268A.01, or (iii)
18 a minor child on the date the notice is given. This demand must
19 be in writing, contain reasonable proof of qualification, and be
20 given to the declarant within 30 days after the notice of
21 conversion is delivered or mailed.

22 (4) The notice shall be contained in an envelope upon which
23 the following shall be boldly printed: "Notice of Conversion."

24 (b) Notwithstanding subsection (a), an occupant may be
25 required to vacate a unit upon less than 120 days' notice by
26 reason of nonpayment of rent, utilities or other monetary
27 obligations, violations of law, waste, or conduct that disturbs
28 other occupants' peaceful enjoyment of the premises. The terms
29 of the tenancy may not be altered during the notice period,
30 except that the holder of the lessee's interest or other party
31 in possession may vacate and terminate the tenancy upon one
32 month's written notice to the declarant. Nothing in this
33 section prevents the unit owner and any occupant from agreeing
34 to a right of occupancy on a month-to-month basis beyond the
35 120-day notice period, or to an earlier termination of the right
36 of occupancy.

1 (c) No repair work or remodeling may be commenced or
2 undertaken in the occupied units or common areas of the building
3 during the notice period, unless reasonable precautions are
4 taken to ensure the safety and security of the occupants.

5 (d) For 60 days after delivery or mailing of the notice
6 described in subsection (a), the holder of the lessee's interest
7 in the unit on the date the notice is mailed or delivered shall
8 have an option to purchase that unit on the terms set forth in
9 the purchase agreement attached to the notice. The purchase
10 agreement shall contain no terms or provisions which violate any
11 state or federal law relating to discrimination in housing. If
12 the holder of the lessee's interest fails to purchase the unit
13 during that 60-day period, the unit owner may not offer to
14 dispose of an interest in that unit during the following 180
15 days at a price or on terms more favorable to the offeree than
16 the price or terms offered to the holder. This subsection does
17 not apply to any unit in a conversion building if that unit will
18 be restricted exclusively to nonresidential use or if the
19 boundaries of the converted unit do not substantially conform to
20 the boundaries of the residential unit before conversion.

21 (e) If a unit owner, in violation of subsection (b),
22 conveys a unit to a purchaser for value who has no knowledge of
23 the violation, the recording of the deed conveying the unit or,
24 in a cooperative, the conveyance of the right to possession of
25 the unit, extinguishes any right a holder of a lessee's interest
26 who is not in possession of the unit may have under subsection
27 (d) to purchase that unit, but the conveyance does not affect
28 the right of the holder to recover damages from the unit owner
29 for a violation of subsection (d).

30 (f) If a notice of conversion specifies a date by which a
31 unit or proposed unit must be vacated or otherwise complies with
32 the provisions of chapter 504B, the notice also constitutes a
33 notice to vacate specified by that statute.

34 (g) Nothing in this section permits a unit owner to
35 terminate a lease in violation of its terms.

36 (h) Failure to give notice as required by this section is a

1 defense to an action for possession until a notice complying
2 with this section is given and the applicable notice period
3 terminates.

4 Sec. 40. Minnesota Statutes 2004, section 515B.4-115, is
5 amended to read:

6 515B.4-115 [STATUTE OF LIMITATIONS FOR WARRANTIES.]

7 (a) A judicial proceeding for breach of an obligation
8 arising under section 515B.4-101(e) or 515B.4-106(d), shall be
9 commenced within six months after the conveyance of the unit or
10 other parcel of real estate.

11 (b) A judicial proceeding for breach of an obligation
12 arising under section 515B.4-112 or 515B.4-113 shall be
13 commenced within six years after the cause of action accrues,
14 but the parties may agree to reduce the period of limitation to
15 not less than two years. With respect to a unit that may be
16 occupied for residential use, an agreement to reduce the period
17 of limitation must be evidenced by an instrument separate from
18 the purchase agreement signed by the purchaser.

19 (c) Subject to subsection (d), a cause of action under
20 section 515B.4-112 or 515B.4-113, regardless of the purchasers
21 lack of knowledge of the breach, accrues:

22 (1) as to a unit, at the earlier of the time of conveyance
23 of the unit by the declarant to a bona fide purchaser of the
24 unit other than an affiliate of a declarant, or the time the
25 purchaser enters into possession of the unit; and

26 (2) as to each common element, the latest of (i) the time
27 the common element is completed, (ii) the time the first unit in
28 the common interest community is conveyed to a bona fide
29 purchaser, or if the common element is located on property that
30 is additional real estate at the time the first unit therein is
31 conveyed to a bona fide purchaser, or (iii) the termination of
32 the period of declarant control.

33 (d) If a warranty explicitly extends to future performance
34 or duration of any improvement or component of the common
35 interest community, the cause of action accrues at the time the
36 breach is discovered or at the end of the period for which the

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1 warranty explicitly extends, whichever is earlier.

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[REVISOR] JSK/DI A05-0030

1 Senator moves to amend S.F. No. 393 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 515B.1-102,
4 is amended to read:

5 515B.1-102 [APPLICABILITY.]

6 (a) Except as provided in this section, this chapter, and
7 not chapters 515 and 515A, applies to all common interest
8 communities created within this state on and after June 1, 1994.

9 (b) The applicability of this chapter to common interest
10 communities created prior to June 1, 1994, shall be as follows:

11 (1) This chapter shall apply to condominiums created under
12 chapter 515A with respect to events and circumstances occurring
13 on and after June 1, 1994; provided (i) that this chapter shall
14 not invalidate the declarations, bylaws or condominium plats of
15 those condominiums, and (ii) that chapter 515A, and not this
16 chapter, shall govern all rights and obligations of a declarant
17 of a condominium created under chapter 515A, and the rights and
18 claims of unit owners against that declarant.

19 (2) The following sections in this chapter apply to
20 condominiums created under chapter 515: 515B.1-104 (Variation
21 by Agreement); 515B.1-105 (Separate Titles and Taxation);
22 515B.1-106 (Applicability of Local Ordinances, Regulations, and
23 Building Codes); 515B.1-107 (Eminent Domain); 515B.1-108
24 (Supplemental General Principles of Law Applicable); 515B.1-109
25 (Construction Against Implicit Repeal); 515B.1-112
26 (Unconscionable Agreement or Term of Contract); 515B.1-113
27 (Obligation of Good Faith); 515B.1-114 (Remedies to be Liberally
28 Administered); 515B.1-115 (Notice); 515B.1-116 (Recording);
29 515B.2-103 (Construction and Validity of Declaration and
30 Bylaws); 515B.2-104 (Description of Units); 515B.2-108(d)
31 (Allocation of Interests); 515B.2-109(c) (Common Elements and
32 Limited Common Elements); 515B.2-112 (Subdivision or Conversion
33 of Units); 515B.2-113 (Alteration of Units); 515B.2-114
34 (Relocation of Boundaries Between Adjoining Units); 515B.2-115
35 (Minor Variations in Boundaries); 515B.2-118 (Amendment of
36 Declaration); 515B.2-119 (Termination of Common Interest

1 Community); 515B.3-102 (Powers of Unit Owners' Association);
2 515B.3-103(a), (b), and (g) (Board; Directors and Officers;
3 Period of Declarant Control); 515B.3-107 (Upkeep of Common
4 Interest Community); 515B.3-108 (Meetings); 515B.3-109
5 (Quorums); 515B.3-110 (Voting; Proxies); 515B.3-111 (Tort and
6 Contract Liability); 515B.3-112 (Conveyance or Encumbrance of
7 Common Elements); 515B.3-113 (Insurance); 515B.3-114 (Reserves;
8 Surplus Funds); 515B.3-115 (c), (e), (f), (g), (h), and (i)
9 (Assessments for Common Expenses); 515B.3-116 (Lien for
10 Assessments); 515B.3-117 (Other Liens); 515B.3-118 (Association
11 Records); 515B.3-119 (Association as Trustee); 515B.3-121
12 (Accounting Controls); 515B.4-107 (Resale of Units); 515B.4-108
13 (Purchaser's Right to Cancel Resale); and 515B.4-116 (Rights of
14 Action; Attorney's Fees). Section 515B.1-103 (Definitions)
15 shall apply to the extent necessary in construing any of the
16 sections referenced in this section. Sections 515B.1-105,
17 515B.1-106, 515B.1-107, 515B.1-116, 515B.2-103, 515B.2-104,
18 515B.2-118, 515B.3-102, 515B.3-110, 515B.3-111, 515B.3-113,
19 515B.3-116, 515B.3-117, 515B.3-118, 515B.3-121, 515B.4-107,
20 515B.4-108, and 515B.4-116 apply only with respect to events and
21 circumstances occurring on and after June 1, 1994. All other
22 sections referenced in this section apply only with respect to
23 events and circumstances occurring after July 31, 1999. A
24 section referenced in this section does not invalidate the
25 declarations, bylaws or condominium plats of condominiums
26 created before August 1, 1999. But all sections referenced in
27 this section prevail over the declarations, bylaws, CIC plats,
28 rules and regulations under them, of condominiums created before
29 August 1, 1999, except to the extent that this chapter defers to
30 the declarations, bylaws, CIC plats, or rules and regulations
31 issued under them.

32 (3) This chapter shall not apply to cooperatives and
33 planned communities created prior to June 1, 1994; except by
34 election pursuant to subsection (d), and except that sections
35 515B.1-116, subsections (a), (c), (d), (e), (f), and (h),
36 515B.4-107, and 515B.4-108, apply to all planned communities and

1 cooperatives regardless of when they are created, unless they
2 are exempt under subsection (e).

3 (c) This chapter shall not invalidate any amendment to the
4 declaration, bylaws or condominium plat of any condominium
5 created under chapter 515 or 515A if the amendment was recorded
6 before June 1, 1994. Any amendment recorded on or after June 1,
7 1994, shall be adopted in conformity with the procedures and
8 requirements specified by those instruments and by this
9 chapter. If the amendment grants to any person any rights,
10 powers or privileges permitted by this chapter, all correlative
11 obligations, liabilities and restrictions contained in this
12 chapter shall also apply to that person.

13 (d) Any condominium created under chapter 515, any planned
14 community or cooperative which would be exempt from this chapter
15 under subsection (e), or any planned community or cooperative
16 created prior to June 1, 1994, may elect to be subject to this
17 chapter, as follows:

18 (1) The election shall be accomplished by recording a
19 declaration or amended declaration, and a new or amended CIC
20 plat where required, and by approving bylaws or amended bylaws,
21 which conform to the requirements of this chapter, and which, in
22 the case of amendments, are adopted in conformity with the
23 procedures and requirements specified by the existing
24 declaration and bylaws of the common interest community, and by
25 any applicable statutes.

26 (2) In a condominium, the preexisting condominium plat
27 shall be the CIC plat and an amended CIC plat shall be required
28 only if the amended declaration or bylaws contain provisions
29 inconsistent with the preexisting condominium plat. The
30 condominium's CIC number shall be the apartment ownership number
31 or condominium number originally assigned to it by the recording
32 officer. In a cooperative in which the unit owners' interests
33 are characterized as real estate, a CIC plat shall be required.
34 In a planned community, the preexisting plat recorded pursuant
35 to chapter 505, 508, or 508A, or the part of the plat upon which
36 the common interest community is located, shall be the CIC plat.

1 (3) The amendment shall ~~conform to the requirements of~~
2 comply with section 515B.2-118~~(d)~~(a)(3).

3 (4) Except as permitted by paragraph (3), no declarant,
4 affiliate of declarant, association, master association nor unit
5 owner may acquire, increase, waive, reduce or revoke any
6 previously existing warranty rights or causes of action that one
7 of said persons has against any other of said persons by reason
8 of exercising the right of election under this subsection.

9 (5) A common interest community which elects to be subject
10 to this chapter may, as a part of the election process, change
11 its form of ownership by complying with ~~the requirements of~~
12 section 515B.2-123.

13 (e) Except as otherwise provided in this subsection, this
14 chapter shall not apply, except by election pursuant to
15 subsection (d), to the following:

16 (1) a planned community ~~or cooperative~~ which consists of ~~12~~
17 ~~or fewer~~ two units ~~subject to the same declaration, which~~
18 utilizes a common interest community plat complying with section
19 515B.2-110(d)(1) and (2), which is not subject to any rights
20 to subdivide or convert units or to add additional real estate,
21 and which ~~will~~ is not be subject to a master association;

22 (2) a common interest community where the units consist
23 solely of separate parcels of real estate designed or utilized
24 for detached single family dwellings or agricultural purposes,
25 and where the association or a master association has no
26 obligation to maintain any building containing a dwelling or any
27 agricultural building;

28 (3) a cooperative where, at the time of creation of the
29 cooperative, the unit owners' interests in the dwellings as
30 described in the declaration consist solely of proprietary
31 leases having an unexpired term of fewer than 20 years,
32 including renewal options;

33 (4) planned communities utilizing a common interest
34 community plat complying with section 515B.2-110(d)(1) and (2)
35 and cooperatives, which are limited by the declaration to
36 nonresidential use; or

1 (5) real estate subject only to an instrument or
2 instruments filed primarily for the purpose of creating or
3 modifying rights with respect to access, utilities, parking,
4 ditches, drainage, or irrigation.

5 (f) Section 515B.1-106 shall apply to all common interest
6 communities.

7 Sec. 2. Minnesota Statutes 2004, section 515B.1-103, is
8 amended to read:

9 515B.1-103 [DEFINITIONS.]

10 In the declaration and bylaws, unless specifically provided
11 otherwise or the context otherwise requires, and in this chapter:

12 (1) "Additional real estate" means real estate that may be
13 added to a flexible common interest community.

14 (2) "Affiliate of a declarant" means any person who
15 controls, is controlled by, or is under common control with a
16 declarant.

17 (A) A person "controls" a declarant if the person (i) is a
18 general partner, officer, director, or employer of the
19 declarant, (ii) directly or indirectly or acting in concert with
20 one or more other persons, or through one or more subsidiaries,
21 owns, controls, holds with power to vote, or holds proxies
22 representing, more than 20 percent of the voting interest in the
23 declarant, (iii) controls in any manner the election of a
24 majority of the directors of the declarant, or (iv) has
25 contributed more than 20 percent of the capital of the declarant.

26 (B) A person "is controlled by" a declarant if the
27 declarant (i) is a general partner, officer, director, or
28 employer of the person, (ii) directly or indirectly or acting in
29 concert with one or more other persons, or through one or more
30 subsidiaries, owns, controls, holds with power to vote, or holds
31 proxies representing, more than 20 percent of the voting
32 interest in the person, (iii) controls in any manner the
33 election of a majority of the directors of the person, or (iv)
34 has contributed more than 20 percent of the capital of the
35 person.

36 (C) Control does not exist if the powers described in this

1 subsection are held solely as a security interest and have not
2 been exercised.

3 (3) "Allocated interests" means the following interests
4 allocated to each unit: (i) in a condominium, the undivided
5 interest in the common elements, the common expense liability,
6 and votes in the association; (ii) in a cooperative, the common
7 expense liability and the ownership interest and votes in the
8 association; and (iii) in a planned community, the common
9 expense liability and votes in the association.

10 (4) "Association" means the unit owners' association
11 organized under section 515B.3-101.

12 (5) "Board" means the body, regardless of name, designated
13 in the articles of incorporation, bylaws or declaration to act
14 on behalf of the association, or on behalf of a master
15 association when so identified.

16 (6) "CIC plat" means a common interest community plat
17 described in section 515B.2-110.

18 (7) "Common elements" means all portions of the common
19 interest community other than the units.

20 (8) "Common expenses" means expenditures made or
21 liabilities incurred by or on behalf of the association, or
22 master association when so identified, together with any
23 allocations to reserves.

24 (9) "Common expense liability" means the liability for
25 common expenses allocated to each unit pursuant to section
26 515B.2-108.

27 (10) "Common interest community" or "CIC" means contiguous
28 or noncontiguous real estate within Minnesota that is subject to
29 an instrument which obligates persons owning a separately
30 described parcel of the real estate, or occupying a part of the
31 real estate pursuant to a proprietary lease, by reason of their
32 ownership or occupancy, to pay for (i) real estate taxes levied
33 against; (ii) insurance premiums payable with respect to; (iii)
34 maintenance of; or (iv) construction, maintenance, repair or
35 replacement of improvements located on one or more parcels or
36 parts of the real estate other than the parcel or part that the

1 person owns or occupies. Real estate which satisfies the
2 definition of a common interest community is a common interest
3 community whether or not it is subject to this chapter. Real
4 estate subject to a master association, regardless of when the
5 master association was formed, shall not collectively constitute
6 a separate common interest community unless so stated in the
7 master declaration recorded against the real estate pursuant to
8 section 515B.2-121, subsection (f)(1).

9 (11) "Condominium" means a common interest community in
10 which (i) portions of the real estate are designated as units,
11 (ii) the remainder of the real estate is designated for common
12 ownership solely by the owners of the units, and (iii) undivided
13 interests in the common elements are vested in the unit owners.

14 (12) "Conversion property" means real estate on which is
15 located a building that at any time within two years before
16 creation of the common interest community was occupied as-a
17 residence for residential use wholly or partially by persons
18 other than purchasers and persons who occupy with the consent of
19 purchasers.

20 (13) "Cooperative" means a common interest community in
21 which the real estate is owned by an association, each of whose
22 members is entitled by virtue of the member's ownership interest
23 in the association to a proprietary lease.

24 (14) "Dealer" means a person in the business of selling
25 units for the person's own account.

26 (15) "Declarant" means:

27 (i) if the common interest community has been created, (A)
28 any person who has executed a declaration, or an amendment to a
29 declaration to add additional real estate, except secured
30 parties, persons whose interests in the real estate will not be
31 transferred to unit owners, or, in the case of a leasehold
32 common interest community, a lessor who possesses no special
33 declarant rights and who is not an affiliate of a declarant who
34 possesses special declarant rights, or (B) any person who
35 reserves, or succeeds under section 515B.3-104 to any special
36 declarant rights; or

1 (ii) any person or persons acting in concert who have
2 offered prior to creation of the common interest community to
3 transfer their interest in a unit to be created and not
4 previously transferred.

5 (16) "Declaration" means any instrument, however
6 denominated, ~~including any amendment to the instrument,~~ that
7 creates a common interest community.

8 (17) "Dispose" or "disposition" means a voluntary transfer
9 to a purchaser of any legal or equitable interest in the common
10 interest community, but the term does not include the transfer
11 or release of a security interest.

12 (18) "Flexible common interest community" means a common
13 interest community to which additional real estate may be added.

14 (19) "Leasehold common interest community" means a common
15 interest community in which all or a portion of the real estate
16 is subject to a lease the expiration or termination of which
17 will terminate the common interest community or reduce its size.

18 (20) "Limited common element" means a portion of the common
19 elements allocated by the declaration or by operation of section
20 515B.2-102(d) or (f) for the exclusive use of one or more but
21 fewer than all of the units.

22 (21) "Master association" means an entity created on or
23 after June 1, 1994, that directly or indirectly exercises any of
24 the powers set forth in section 515B.3-102 on behalf of one or
25 more members described in section 515B.2-121(b), (i), (ii) or
26 (iii), whether or not it also exercises those powers on behalf
27 of one or more property owners owner's associations described in
28 section 515B.2-121(b)(iv). A person (i) hired by an association
29 to perform maintenance, repair, accounting, bookkeeping or
30 management services, or (ii) granted authority under an
31 instrument recorded primarily for the purpose of creating rights
32 or obligations with respect to utilities, access, drainage, or
33 recreational amenities, is not, solely by reason of that
34 relationship, a master association.

35 (22) "Master declaration" means a written instrument,
36 however named, (i) recorded on or after June 1, 1994, against

1 property subject to powers exercised by a master association and
2 (ii) ~~satisfying-the-requirements-of~~ complying with section
3 515B.2-121, subsection (f)(1).

4 (23) "Period of declarant control" means the time period
5 provided for in section 515B.3-103(c) during which the declarant
6 may appoint and remove officers and directors of the association.

7 (24) "Person" means an individual, corporation, limited
8 liability company, partnership, trustee under a trust, personal
9 representative, guardian, conservator, government, governmental
10 subdivision or agency, or other legal or commercial entity
11 capable of holding title to real estate.

12 (25) "Planned community" means a common interest community
13 that is not a condominium or a cooperative. A condominium or
14 cooperative may be a part of a planned community.

15 (26) "Proprietary lease" means an agreement with a
16 cooperative association whereby a member of the association is
17 entitled to exclusive possession of a unit in the cooperative.

18 (27) "Purchaser" means a person, other than a declarant,
19 who by means of a voluntary transfer acquires a legal or
20 equitable interest in a unit other than (i) a leasehold interest
21 of less than 20 years, including renewal options, or (ii) a
22 security interest.

23 (28) "Real estate" means any fee simple, leasehold or other
24 estate or interest in, over, or under land, including
25 structures, fixtures, and other improvements and interests that
26 by custom, usage, or law pass with a conveyance of land though
27 not described in the contract of sale or instrument of
28 conveyance. "Real estate" may include spaces with or without
29 upper or lower boundaries, or spaces without physical boundaries.

30 (29) "Residential use" means use as a dwelling, whether
31 primary, secondary or seasonal, but not transient use such as
32 hotels or motels.

33 (30) "Secured party" means the person owning a security
34 interest as defined in paragraph (31).

35 (31) "Security interest" means a perfected interest in real
36 estate or personal property, created by contract or conveyance,

1 which secures payment or performance of an obligation. The term
2 includes a mortgagee's interest in a mortgage, a vendor's
3 interest in a contract for deed, a lessor's interest in a lease
4 intended as security, a holder's interest in a sheriff's
5 certificate of sale during the period of redemption, an
6 assignee's interest in an assignment of leases or rents intended
7 as security, a lender's interest in a cooperative share loan, a
8 pledgee's interest in the pledge of an ownership interest, or
9 any other interest intended as security for an obligation under
10 a written agreement.

11 (32) "Special declarant rights" means rights reserved in
12 the declaration for the benefit of a declarant to:

13 (i) complete improvements indicated on the CIC plat,
14 planned by the declarant consistent with the disclosure
15 statement or authorized by the municipality in which the CIC is
16 located;

17 (ii) add additional real estate to a common interest
18 community;

19 (iii) subdivide or combine units, or convert units into
20 common elements, limited common elements and/or units;

21 (iv) maintain sales offices, management offices, signs
22 advertising the common interest community, and models;

23 (v) use easements through the common elements for the
24 purpose of making improvements within the common interest
25 community or any additional real estate;

26 (vi) create a master association and provide for the
27 exercise of authority by the master association over the common
28 interest community or its unit owners;

29 (vii) merge or consolidate a common interest community with
30 another common interest community of the same form of ownership;
31 or

32 (viii) appoint or remove any officer or director of the
33 association, or the master association where applicable, during
34 any period of declarant control.

35 (33) "Time share" means a right to occupy a unit or any of
36 several units during three or more separate time periods over a

1 period of at least three years, including renewal options,
2 whether or not coupled with an estate or interest in a common
3 interest community or a specified portion thereof.

4 (34) "Unit" means a physical portion of a common interest
5 community the boundaries of which are described in the common
6 interest community's declaration and which is intended for
7 separate ownership or separate occupancy pursuant to a
8 proprietary lease.

9 (35) "Unit identifier" means English letters or Arabic
10 numerals, or a combination thereof, which identify only one unit
11 in a common interest community and which meet the requirements
12 of section 515B.2-104.

13 (36) "Unit owner" means a declarant or other person who
14 owns a unit, a lessee under a proprietary lease, or a lessee of
15 a unit in a leasehold common interest community whose lease
16 expires simultaneously with any lease the expiration or
17 termination of which will remove the unit from the common
18 interest community, but does not include a secured party. In a
19 common interest community, the declarant is the unit owner of a
20 unit until that unit has been conveyed to another person.

21 Sec. 3. Minnesota Statutes 2004, section 515B.1-106, is
22 amended to read:

23 515B.1-106 [APPLICABILITY OF LOCAL REQUIREMENTS.]

24 (a) Except as provided in subsections (b) and (c), a
25 zoning, subdivision, building code, or other real estate use
26 law, ordinance, charter provision, or regulation may not
27 directly or indirectly prohibit the common interest community
28 form of ownership or impose any requirement upon a common
29 interest community, upon the creation or disposition of a common
30 interest community or upon any part of the common interest
31 community conversion process which it would not impose upon a
32 physically similar development under a different form of
33 ownership. Otherwise, no provision of this chapter invalidates
34 or modifies any provision of any zoning, subdivision, building
35 code, or other real estate use law, ordinance, charter
36 provision, or regulation.

1 (b) Subsection (a) shall not apply to any ordinance, rule,
2 regulation, charter provision or contract provision relating to
3 the financing of housing construction, rehabilitation, or
4 purchases provided by or through a housing finance program
5 established and operated pursuant to state or federal law by a
6 state or local agency or local unit of government.

7 (c) A statutory or home rule charter city, pursuant to an
8 ordinance or charter provision establishing standards to be
9 applied uniformly within its jurisdiction, may prohibit or
10 impose reasonable conditions upon the conversion of
11 buildings occupied wholly or partially for residential use to
12 the common interest community form of ownership only if there
13 exists within the city a significant shortage of suitable rental
14 dwellings available to low and moderate income individuals or
15 families or to establish or maintain the city's eligibility for
16 any federal or state program providing direct or indirect
17 financial assistance for housing to the city. Prior to the
18 adoption of an ordinance pursuant to the authority granted in
19 this subsection, the city shall conduct a public hearing. Any
20 ordinance or charter provision adopted pursuant to this
21 subsection shall not apply to any existing or proposed
22 conversion common interest community (i) for which a bona fide
23 loan commitment for a consideration has been issued by a lender
24 and is in effect on the date of adoption of the ordinance or
25 charter provision, or (ii) for which a notice of conversion or
26 intent to convert required by section 515B.4-111, containing a
27 termination of tenancy, has been given to at least 75 percent of
28 the tenants and subtenants in possession prior to the date of
29 adoption of the ordinance or charter provision.

30 (d) For purposes of providing marketable title, a statement
31 in the declaration that the common interest community is not
32 subject to an ordinance or that any conditions required under an
33 ordinance have been complied with shall be prima facie evidence
34 that the common interest community was not created in violation
35 of the ordinance.

36 (e) A violation of an ordinance or charter provision

1 adopted pursuant to the provisions of subsection (b) or (c)
2 shall not affect the validity of a common interest community.
3 This subsection shall not be construed to in any way limit the
4 power of a city to enforce the provisions of an ordinance or
5 charter provision adopted pursuant to subsection (b) or (c).

6 (f) Any ordinance or charter provision enacted hereunder
7 shall not be effective for a period exceeding 18 months.

8 Sec. 4. Minnesota Statutes 2004, section 515B.1-107, is
9 amended to read:

10 515B.1-107 [EMINENT DOMAIN.]

11 (a) If a unit is acquired by eminent domain, or if part of
12 a unit is acquired by eminent domain leaving the unit owner with
13 a remnant which may not practically or lawfully be used for any
14 material purpose permitted by the declaration, the award shall
15 compensate the unit owner and secured party in the unit as their
16 interests may appear, whether or not any common element interest
17 is acquired. Upon acquisition, unless the order or final
18 certificate otherwise provides, that unit's allocated interests
19 are automatically reallocated among the remaining units in
20 proportion to their respective allocated interests prior to the
21 taking, and the association shall promptly prepare, execute, and
22 record an amendment to the declaration reflecting the
23 allocations. Any remnant of a unit remaining after part of a
24 unit is taken under this subsection is thereafter a common
25 element.

26 (b) Except as provided in subsection (a), if part of a unit
27 is acquired by eminent domain, the award shall compensate the
28 unit owner and secured party for the reduction in value of the
29 unit and its interest in the common elements, whether or not any
30 common elements are acquired. Upon acquisition, unless the
31 order or final certificate otherwise provides, (i) that unit's
32 allocated interests are reduced in proportion to the reduction
33 in the size of the unit, or on any other basis specified in the
34 declaration and (ii) the portion of the allocated interests
35 divested from the partially acquired unit are automatically
36 reallocated to that unit and to the remaining units in

1 proportion to the respective allocated interests of those units
2 before the taking, with the partially acquired unit
3 participating in the reallocation on the basis of its reduced
4 allocated interests.

5 (c) If part of the common elements is acquired by eminent
6 domain, the portion of the award attributable to the common
7 elements taken shall be paid to the association. In an eminent
8 domain proceeding which seeks to acquire a part of the common
9 elements, jurisdiction may be acquired by service of process
10 upon the association. Unless the declaration provides
11 otherwise, any portion of the award attributable to the
12 acquisition of a limited common element shall be equally divided
13 among the owners of the units to which that limited common
14 element was allocated at the time of acquisition and their
15 secured parties, as their interests may appear or as provided by
16 the declaration.

17 (d) In any eminent domain proceeding the units shall be
18 treated as separate parcels of real estate for valuation
19 purposes, regardless of the number of units subject to the
20 proceeding.

21 (e) Any distribution to a unit owner from the proceeds of
22 an eminent domain award shall be subject to any limitations
23 imposed by the declaration or bylaws.

24 (f) The court order or final certificate containing the
25 final awards shall be recorded in every county in which any
26 portion of the common interest community is located.

27 Sec. 5. Minnesota Statutes 2004, section 515B.1-116, is
28 amended to read:

29 515B.1-116 [RECORDING.]

30 (a) A declaration, bylaws, any amendment to a declaration
31 or bylaws, and any other instrument affecting a common interest
32 community shall be entitled to be recorded. In those counties
33 which have a tract index, the county recorder shall enter the
34 declaration in the tract index for each unit or other tract
35 affected. The county recorder shall not enter the declaration
36 in the tract index for lands described as additional real

1 estate, unless such lands are added to the common interest
2 community pursuant to section 515B.2-111. The registrar of
3 titles shall file the declaration in accordance with section
4 508.351 or 508A.351. The registrar of titles shall not file the
5 declaration upon certificates of title for lands described as
6 additional real estate, unless such lands are added to the
7 common interest community pursuant to section 515B.2-111.

8 (b) The recording officer shall upon request promptly
9 assign a number (CIC number) to a common interest community to
10 be formed or to a common interest community resulting from the
11 merger of two or more common interest communities.

12 (c) Documents recorded pursuant to this chapter shall in
13 the case of registered land be filed, and references to the
14 recording of documents shall mean filed in the case of
15 registered land.

16 (d) Subject to any specific requirements of this chapter,
17 if a recorded document relating to a common interest
18 community or a master association purports to require a certain
19 vote or signatures approving any restatement or amendment of the
20 document by a certain number or percentage of unit owners or
21 secured parties, and if the amendment or restatement is to be
22 recorded ~~pursuant-to-this-chapter~~, an affidavit of the president
23 or secretary of the association stating that the required vote
24 or signatures have been obtained shall be attached to the
25 document to be recorded and shall constitute prima facie
26 evidence of the representations contained therein.

27 (e) If a common interest community is located on registered
28 land, the recording fee for any document affecting two or more
29 units shall be the then-current fee for registering the document
30 on the certificates of title for the first ten affected
31 certificates and one-third of the then-current fee for each
32 additional affected certificate. This provision shall not apply
33 to recording fees for deeds of conveyance, with the exception of
34 deeds given pursuant to sections 515B.2-119 and 515B.3-112. The
35 same fees shall apply to recording any document affecting two or
36 more units or other parcels of real estate subject to a master

1 declaration.

2 (f) Except as permitted under this subsection, a recording
3 officer shall not file or record a declaration creating a new
4 common interest community, unless the county treasurer has
5 certified that the property taxes payable in the current year
6 for the real estate included in the proposed common interest
7 community have been paid. This certification is in addition to
8 the certification for delinquent taxes required by section
9 272.12. In the case of preexisting common interest communities,
10 the recording officer shall accept, file, and record the
11 following instruments, without requiring a certification as to
12 the current or delinquent taxes on any of the units in the
13 common interest community: (i) a declaration subjecting the
14 common interest community to this chapter; (ii) a declaration
15 changing the form of a common interest community pursuant to
16 section 515B.2-123; or (iii) an amendment to or restatement of
17 the declaration, bylaws, or CIC plat. In order for an
18 instrument to be accepted and recorded under the preceding
19 sentence, the instrument must not create or change unit or
20 common area boundaries.

21 Sec. 6. Minnesota Statutes 2004, section 515B.2-101, is
22 amended to read:

23 515B.2-101 [CREATION OF COMMON INTEREST COMMUNITIES.]

24 (a) On and after June 1, 1994, a common interest community
25 may be created only as follows:

26 (1) A condominium may be created only by recording a
27 declaration.

28 (2) A cooperative may be created only by recording a
29 declaration and by recording a conveyance of the real estate
30 subject to that declaration to the association.

31 (3) A planned community which includes common elements may
32 be created only by simultaneously recording a declaration and a
33 conveyance of the common elements subject to that declaration to
34 the association.

35 (4) A planned community without common elements may be
36 created only by recording a declaration.

1 (b) Except as otherwise expressly provided in this chapter,
2 the declaration shall be executed by all persons whose interests
3 in the real estate will be conveyed to unit owners or to the
4 association, except vendors under contracts for deed, and by
5 every lessor of a lease the expiration or termination of which
6 will terminate the common interest community. The declaration
7 shall be recorded in every county in which any portion of the
8 common interest community is located. Failure of any party not
9 required to execute a declaration, but having a recorded
10 interest in the common interest community, to join in the
11 declaration shall have no effect on the validity of the common
12 interest community; provided that the party is not bound by the
13 declaration until that party acknowledges the existence of the
14 common interest community in a recorded instrument.

15 (c) In a condominium, a planned community utilizing a CIC
16 plat complying with section 515B.2-110(c), or ~~real-estate a~~
17 cooperative where the unit boundaries are delineated by
18 a ~~physical~~ structure, a declaration, or an amendment to a
19 declaration adding units, shall not be recorded unless ~~all the~~
20 structural components of the structures containing the units and
21 the mechanical systems serving more than one unit in all
22 ~~buildings-containing-the-units-thereby-created~~, but not the
23 units, are substantially completed, as evidenced by a recorded
24 certificate executed by a registered engineer or architect.

25 (d) A project which (i) meets the definition of a "common
26 interest community" in section 515B.1-103(10), (ii) is created
27 after May 31, 1994, and (iii) is not exempt under section
28 515B.1-102(e), is subject to this chapter even if this or other
29 sections of the chapter have not been complied with, and the
30 declarant and all unit owners are bound by all requirements and
31 obligations of this chapter.

32 (e) The association shall be incorporated pursuant to
33 section 515B.3-101 and the CIC plat shall be recorded as and if
34 required by section 515B.2-110.

35 Sec. 7. Minnesota Statutes 2004, section 515B.2-102, is
36 amended to read:

1 515B.2-102 [UNIT BOUNDARIES.]

2 (a) The declaration shall describe the boundaries of the
3 units as provided in section 515B.2-105(5). The boundaries need
4 not be delineated by a physical structure. The unit may consist
5 of noncontiguous portions of the common interest community.

6 (b) In a condominium ~~or~~, a cooperative, or a planned
7 community utilizing a CIC plat complying with section
8 515B.2-110(c), except as the declaration otherwise provides, if
9 the walls, floors, or ceilings of a unit are designated as its
10 boundaries, then the boundaries shall be the interior,
11 unfinished surfaces of the perimeter walls, floors and,
12 ceilings, doors, windows, and door and window frames of the unit.
13 All paneling, tiles, wallpaper, paint, floor covering, and any
14 other finishing materials applied to the interior surfaces of
15 the perimeter walls, floors or ceilings, are a part of the unit,
16 and all other portions of the perimeter walls, floors, or
17 ceilings, including-perimeter doors and, windows, and their
18 door and window frames, are a part of the common elements.

19 (c) In a planned community, ~~except-as-the-declaration~~
20 ~~otherwise-provides~~ utilizing a CIC plat complying with section
21 515B.2-110(d)(1) and (2), the unit boundaries shall be
22 ~~the boundary-lines-as-designated-on-a-plat-recorded-pursuant-to~~
23 ~~chapter-505-or-on-a-registered-land-survey-filed~~ lot lines
24 designated on a plat recorded pursuant to chapter 508-or
25 508A 505.

26 (d) If any chute, flue, duct, wire, pipe, conduit, bearing
27 wall, bearing column, or any other fixture serving fewer than
28 all units lies partially within and partially outside of
29 the ~~designated~~ boundaries of a the unit or units served, any
30 portion thereof serving only that unit or units is a limited
31 common element allocated solely to that unit or units, and any
32 portion thereof serving ~~more-than-one-unit-or~~ any portion of the
33 common elements is a part of the common elements.

34 (e) Subject to subsection (d), all spaces, interior
35 partitions, and other fixtures and improvements within the
36 boundaries of a unit are a part of the unit.

1 (f) Improvements such as shutters, awnings, window boxes,
2 doorsteps, stoops, porches, balconies, decks, patios, perimeter
3 doors and windows, and their frames, constructed as part of the
4 original construction to serve a single unit, and authorized
5 replacements and modifications thereof, if located wholly or
6 partially outside the unit's boundaries, are limited common
7 elements allocated exclusively to that unit.

8 Sec. 8. Minnesota Statutes 2004, section 515B.2-104, is
9 amended to read:

10 515B.2-104 [DESCRIPTION OF UNITS.]

11 (a) A description of a unit is legally sufficient if it
12 sets forth (i) the unit identifier of the unit, (ii) the number
13 assigned to the common interest community by the recording
14 officer, and (iii) the county in which the unit is located.

15 (b) If the CIC plat for a planned community complies with
16 chapter 505, 508, or 508A, then a description of a unit in the
17 planned community is legally sufficient if it is stated in terms
18 of a plat or registered land survey. In planned communities
19 whose CIC plats comply with section 515B.2-110(c), and in all
20 condominiums and cooperatives created under this chapter, a unit
21 identifier shall contain no more than six characters, only one
22 of which may be a letter.

23 (c) A description which ~~conforms-to-the-requirements-of~~
24 complies with this section shall be deemed to include all
25 rights, obligations, and interests appurtenant to the unit which
26 were created by the declaration or bylaws, by a master
27 declaration, or by this chapter, whether or not those rights,
28 obligations, or interests are expressly described.

29 (d) If the CIC plat for a planned community complies with
30 section 515B.2-110(c) a description of the common elements is
31 legally sufficient if it sets forth (i) the words "common
32 elements," (ii) the number assigned to the common interest
33 community by the recording officer, and (iii) the county in
34 which the common elements are located. The common elements may
35 consist of separate parcels of real estate, in which case each
36 parcel shall be separately identified on the CIC plat and in any

1 recorded instrument referencing a separate parcel of the common
2 elements.

3 Sec. 9. Minnesota Statutes 2004, section 515B.2-106, is
4 amended to read:

5 515B.2-106 [DECLARATION OF FLEXIBLE COMMON INTEREST
6 COMMUNITIES.]

7 (a) The declaration for a flexible common interest
8 community shall include, in addition to the matters specified in
9 section 515B.2-105:

10 (1) a reservation of any rights to add additional real
11 estate;

12 (2) a statement of any time limit, not exceeding ten years
13 after the recording of the declaration, upon which any right
14 reserved under paragraph (1) will lapse, together with a
15 statement of any circumstances that will terminate the option
16 before the expiration of the time limit. If no time limit is
17 set forth in the declaration, the time limit shall be ten years
18 after the recording of the declaration; provided, that the time
19 limit may be extended by an amendment to the declaration
20 approved in writing by the declarant, and by the vote or written
21 agreement of unit owners, other than the declarant or an
22 affiliate of the declarant, to whose units are allocated at
23 least 67 percent of the votes in the association;

24 (3) a statement of any limitations on any rights reserved
25 under paragraph (1), other than limitations created by or
26 imposed pursuant to law;

27 (4) a legally sufficient description of the additional real
28 estate;

29 (5) a statement as to whether portions of any additional
30 real estate may be added at different times;

31 (6) a statement of (i) the maximum number of units, based
32 upon the declarant's good faith estimate, that may be created
33 within any additional real estate, and (ii) how many of those
34 units will be restricted to residential use;

35 (7) a statement that any buildings and units erected upon
36 the additional real estate, when and if added, will be

1 compatible with the other buildings and units in the common
2 interest community in terms of architectural style, quality of
3 construction, principal materials employed in construction, and
4 size, or a statement of any differences with respect to the
5 buildings or units, or a statement that no assurances are made
6 in those regards;

7 (8) a statement that all restrictions in the declaration
8 affecting use, occupancy, and alienation of units will apply to
9 units created in the additional real estate, when and if added,
10 or a statement of any differences with respect to the additional
11 units;

12 (9) a statement as to whether any assurances made in the
13 declaration regarding additional real estate pursuant to
14 paragraphs (5) through (8) will apply if the real estate is not
15 added to the common interest community.

16 (b) A declarant need not have an interest in the additional
17 real estate in order to identify it as such in the declaration,
18 and the recording officer shall index the declaration as
19 provided in section 515B.1-116(a). Identification of additional
20 real estate in the declaration does not encumber or otherwise
21 affect the title to the additional real estate.

22 Sec. 10. Minnesota Statutes 2004, section 515B.2-108, is
23 amended to read:

24 515B.2-108 [ALLOCATION OF INTERESTS.]

25 (a) The declaration shall allocate to each unit:

26 (1) in a condominium, a fraction or percentage of undivided
27 interests in the common elements and in the common expenses of
28 the association and a portion of the votes in the association;

29 (2) in a cooperative, an ownership interest in the
30 association, a fraction or percentage of the common expenses of
31 the association and a portion of the votes in the association;
32 and

33 (3) in a planned community, a fraction or percentage of the
34 common expenses of the association and a portion of the votes in
35 the association.

36 (b) The declaration shall state the formulas used to

1 establish allocations of interests. If the fractions or
2 percentages are all equal the declaration may so state in lieu
3 of stating the fractions or percentages. ~~If equality is~~
4 ~~designated by~~ The declaration ~~as the formula for the allocation~~
5 ~~of votes,~~ need not allocate votes ~~do not attach~~ to units that
6 are auxiliary to other units, such as garage units or storage
7 units. The allocations shall not discriminate in favor of units
8 owned by the declarant or an affiliate of the declarant, except
9 as provided in sections 515B.2-121 and 515B.3-115.

10 (c) If units may be added to the common interest community,
11 ~~the declaration shall state~~ the formulas ~~to be~~ used to
12 reallocate the allocated interests among all units included in
13 the common interest community after the addition shall be the
14 formulas stated in the declaration.

15 (d) The declaration may authorize special allocations: (i)
16 of unit owner votes among certain units or classes of units on
17 particular matters specified in the declaration, or (ii) of
18 common expenses among certain units or classes of units on
19 particular matters specified in the declaration. Special
20 allocations may only be used to address operational, physical or
21 administrative differences within the common interest
22 community. A declarant may not utilize special allocations for
23 the purpose of evading any limitation or obligation imposed on
24 declarants by this chapter nor may units constitute a class
25 because they are owned by a declarant.

26 (e) The sum of each category of allocated interests
27 allocated at any time to all the units must equal one if stated
28 as a fraction or 100 percent if stated as a percentage. In the
29 event of a discrepancy between an allocated interest and the
30 result derived from application of the pertinent formula, the
31 allocated interest prevails.

32 (f) In a condominium or planned community, the common
33 elements are not subject to partition, and any purported
34 conveyance, encumbrance, judicial sale, or other voluntary or
35 involuntary transfer of an undivided interest in the common
36 elements made without the unit to which that interest is

1 allocated is void. The granting of easements, licenses or
2 leases pursuant to section 515B.3-102 shall not constitute a
3 partition.

4 (g) In a cooperative, any purported conveyance,
5 encumbrance, judicial sale, or other voluntary or involuntary
6 transfer of an ownership interest in the association made
7 without the possessory interest in the unit to which that
8 interest is related is void.

9 Sec. 11. Minnesota Statutes 2004, section 515B.2-110, is
10 amended to read:

11 515B.2-110 [COMMON INTEREST COMMUNITY PLAT (CIC PLAT).]

12 (a) A CIC plat is required for condominiums and planned
13 communities, and cooperatives in which the unit owners'
14 interests are characterized as real estate. The CIC plat is a
15 part of the declaration in condominiums, in planned communities
16 utilizing a CIC plat complying with subsection (c), and in
17 cooperatives in which the unit owners' interests are
18 characterized as real estate, but need not be physically
19 attached to the declaration.

20 (1) In a condominium, or a cooperative in which the unit
21 owners' interests are characterized as real estate, the CIC plat
22 shall comply with subsection (c).

23 (2) In a planned community, a CIC plat which does not
24 comply with subsection (c) shall consist of all or part of a
25 subdivision plat or plats complying with subsections (d)(1) and
26 (d)(2). The CIC plat need not contain the number of the common
27 interest community and may be recorded at any time ~~at-or~~ before
28 ~~the time-of~~ recording of the declaration; provided, that if the
29 CIC plat ~~for-the-planned-community~~ complies with subsection (c),
30 the number of the common interest community shall be included
31 and the CIC plat shall be recorded at the time of recording of
32 the declaration.

33 (3) In a cooperative in which the unit owners' interests
34 are characterized as personal property, a CIC plat shall not be
35 required. In lieu of a CIC plat, the declaration or any
36 amendment to it creating, converting, or subdividing units in a

1 personal property cooperative shall include an exhibit
2 containing a scale drawing of each building, identifying the
3 building, and showing the perimeter walls of each unit created
4 or changed by the declaration or any amendment to it, including
5 the unit's unit identifier, and its location within the building
6 if the building contains more than one unit.

7 (b) The CIC plat, or supplemental or amended CIC plat, for
8 condominiums, for planned communities using a plat complying
9 with subsection (c), and for cooperatives in which the unit
10 owners' interests are characterized as real estate, shall
11 contain certifications by a registered professional land
12 surveyor and registered professional architect, as to the parts
13 of the CIC plat prepared by each, that (i) the CIC plat
14 accurately depicts all information required by this section, and
15 (ii) the work was undertaken by, or reviewed and approved by,
16 the certifying land surveyor or architect. The portions of the
17 CIC plat depicting the dimensions of the portions of the common
18 interest community described in subsections (c)(8), (9), (10),
19 and (12), may be prepared by either a land surveyor or an
20 architect. The other portions of the CIC plat shall be prepared
21 only by a land surveyor. A certification of the CIC plat or an
22 amendment to it under this subsection by an architect is not
23 required if all parts of the CIC plat or amendment are prepared
24 by a land surveyor. Certification by the land surveyor or
25 architect does not constitute a guaranty or warranty of the
26 nature, suitability, or quality of construction of any
27 improvements located or to be located in the common interest
28 community.

29 (c) A CIC plat for a condominium, or a cooperative in which
30 the unit owners' interests are characterized as real estate,
31 shall show:

32 (1) the number of the common interest community, and the
33 boundaries, dimensions and a legally sufficient description of
34 the land included therein;

35 (2) the dimensions and location of all existing, material
36 structural improvements and roadways;

1 (3) the intended location and dimensions of any
2 contemplated common element improvements to be constructed
3 within the common interest community after the filing of the CIC
4 plat, labeled either "MUST BE BUILT" or "NEED NOT BE BUILT";

5 (4) the location and dimensions of any additional real
6 estate, labeled as such, and a legally sufficient description of
7 the additional real estate;

8 (5) the extent of any encroachments by or upon any portion
9 of the common interest community;

10 (6) the location and dimensions of all recorded easements
11 within the land included in the common interest community
12 ~~servicing or~~ burdening any portion of the ~~common-interest~~
13 ~~community~~ land;

14 (7) the distance and direction between noncontiguous
15 parcels of real estate;

16 (8) the location and dimensions of limited common elements,
17 except that with respect to limited common elements described in
18 section 515B.2-102, subsections (d) and (f), only such material
19 limited common elements as porches, balconies, decks, patios,
20 and garages shall be shown;

21 (9) the location and dimensions of the front, rear, and
22 side boundaries of each unit and that unit's unit identifier;

23 (10) the location and dimensions of the upper and lower
24 boundaries of each unit with reference to an established or
25 assumed datum and that unit's unit identifier;

26 (11) a legally sufficient description of any real estate in
27 which the unit owners will own only an estate for years, labeled
28 as "leasehold real estate";

29 (12) any units which may be converted by the declarant to
30 create additional units or common elements identified separately.

31 (d) A CIC plat for a planned community either shall comply
32 with subsection (c), or it shall:

33 (1) ~~satisfy the requirements of~~ comply with chapter 505,
34 ~~508, or 508A, as applicable;~~ and

35 (2) ~~satisfy~~ comply with the platting requirements of any
36 governmental authority within whose jurisdiction the planned

1 community is located, subject to the limitations set forth in
2 section 515B.1-106.

3 (e) If a declarant adds additional real estate, the
4 declarant shall record a supplemental CIC plat or plats for the
5 real estate being added, conforming to the requirements of this
6 section which apply to the type of common interest community in
7 question. If less than all additional real estate is being
8 added, the supplemental CIC plat for a condominium, a planned
9 community whose CIC plat complies with subsection (c), or a
10 cooperative in which the unit owners' interests are
11 characterized as real estate, shall also show the location and
12 dimensions of the remaining portion.

13 (f) If, pursuant to section 515B.2-112, a declarant
14 subdivides or converts any unit into two or more units, common
15 elements or limited common elements, or combines two or more
16 units, the declarant shall record an amendment to the CIC plat
17 showing the location and dimensions of any new units, common
18 elements and or limited common elements thus created.

19 (g) A CIC plat which complies with subsection (c) is not
20 subject to chapter 505.

21 Sec. 12. Minnesota Statutes 2004, section 515B.2-111, is
22 amended to read:

23 515B.2-111 [EXPANSION OF FLEXIBLE COMMON INTEREST
24 COMMUNITY.]

25 (a) To add additional real estate pursuant to a right
26 reserved under section ~~515B.2-106(1)~~ 515B.2-106(a)(1), the
27 declarant and all persons whose interests in the additional real
28 estate will be conveyed to unit owners or the association,
29 except vendors under a contract for deed, shall execute and
30 record ~~an amendment to the~~ a supplemental declaration as
31 provided in this section. ~~The amendment to the~~ supplemental
32 declaration shall be titled a "supplemental declaration," shall
33 be limited to matters authorized by this section, and shall
34 include:

35 (1) ~~assign a unit identifier to each unit formed in the~~
36 ~~additional~~ a legally sufficient description of the real estate

1 added by the supplemental declaration;

2 (2) reallocate a description of the boundaries of each unit
3 created by the supplemental declaration, consistent with the
4 declaration, and the unit's unit identifier;

5 (3) in a planned community containing common elements, a
6 legally sufficient description of the common elements;

7 (4) a reallocation of the common element interests, votes
8 in the association, and common expense liabilities as
9 applicable, in compliance with the declaration and section
10 515B.2-108;

11 ~~{3}-describe~~ (5) a description of any limited common
12 elements formed out of the additional real estate, designating
13 the unit to which each is allocated to the extent required by
14 section 515B.2-109;

15 (6) a statement as to whether or not the period of
16 declarant control has terminated, regardless of the reason for
17 such termination; and

18 ~~{4} (7) contain-such-other-provisions-as-may-be-reasonably~~
19 an attached affidavit attesting to the giving of the notice
20 required by the-association;-and subsection (b), if such notice
21 is required.

22 ~~{5}-conform-to-the-applicable-requirements-of-the~~
23 ~~declaration-and-the-act.~~

24 (b) If the period of declarant control has terminated, a
25 declarant shall give notice of its intention to add additional
26 real estate as-follows: to the association (Attention:
27 president of the association) by a notice given in the manner
28 provided in section 515B.1-115 not less than 15 days prior to
29 recording the supplemental declaration which adds the additional
30 real estate. A copy of the supplemental declaration shall be
31 attached to the notice. The supplemental declaration may be in
32 proposed form; however, following notice, the supplemental
33 declaration shall not be changed so as to materially and
34 adversely affect the rights of unit owners or the association
35 unless a new 15-day notice is given in accordance with this
36 section.

1 ~~(1)-If-the-period-of-declarant-control-has-expired, to the~~
 2 ~~association-in-the-same-manner-as-service-of-summons-in-a-civil~~
 3 ~~action-in-district-court-at-least-15-days-prior-to-recording-the~~
 4 ~~amendment.--A-copy-of-the-amendment-shall-be-attached-to-the~~
 5 ~~notice.~~

6 ~~(2)-If-the-period-of-declarant-control-has-not-expired, to~~
 7 ~~the-unit-owners-by-notice-(one-notice-per-unit)-given-in-the~~
 8 ~~manner-provided-in-section-515B.1-115, not-less-than-15-days~~
 9 ~~prior-to-recording-the-amendment, addressed-to-"Unit-Owner~~
 10 ~~Entitled-to-Legal-Notice"-at-each-unit-or-to-the-unit-owner-at~~
 11 ~~such-other-address-as-may-be-designated-by-notice-from-the-unit~~
 12 ~~owner.--The-declarant-shall-provide-a-copy-of-the-amendment-at~~
 13 ~~no-cost-to-any-unit-owner-within-five-business-days-of-the-unit~~
 14 ~~owner's-request, and-the-notice-shall-include-a-statement-to~~
 15 ~~that-effect.~~

16 ~~(3)-Proof-of-notice-to-the-association-or-the-unit-owners,~~
 17 ~~as-the-case-may-be, shall-be-attached-to-the-recorded~~
 18 ~~amendment.--Following-service-of-notice, the-amendment-shall-not~~
 19 ~~be-changed-so-as-to-materially-and-adversely-affect-the-rights~~
 20 ~~of-unit-owners-or-the-association.~~

21 (c) A lien upon the additional real estate that is not also
 22 upon the existing common interest community is a lien only upon
 23 the units, and their respective interest in the common elements
 24 (if any), that are created from the additional real estate.
 25 Units within the common interest community as it existed prior
 26 to expansion are transferred free of liens that existed only
 27 upon the additional real estate, notwithstanding the fact that
 28 the interest in the common elements is a portion of the entire
 29 common interest community, including the additional real estate.

30 (d) If a supplemental declaration in a planned community
 31 creates common elements, then a conveyance of the common
 32 elements to the association shall be recorded simultaneously
 33 with the supplemental declaration. If a supplemental
 34 declaration adds additional real estate to a cooperative, then a
 35 conveyance of the additional real estate to the association
 36 shall be recorded simultaneously with the supplemental

1 declaration.

2 Sec. 13. Minnesota Statutes 2004, section 515B.2-112, is
3 amended to read:

4 515B.2-112 [SUBDIVISION, COMBINATION, OR CONVERSION OF
5 UNITS.]

6 (a) If the declaration so provides, (i) ~~a-unit-owned-by-a~~
7 ~~person-other-than-a-declarant~~ one or more units may be
8 subdivided into two or more units or combined into a lesser
9 number of units, or (ii) a unit or units owned exclusively by a
10 declarant may be subdivided, combined, or converted into ~~two~~ one
11 or more units, limited common elements, common elements, or a
12 combination of units, limited common elements or common
13 elements, ~~subject to subsections (b) and (c).~~

14 (b) If ~~a~~ the unit is or units are not owned exclusively
15 by a ~~unit-owner-other-than-a~~ declarant, the unit owner owners of
16 the units to be combined or subdivided shall ~~prepare~~ cause to be
17 prepared and submit submitted to the association for approval an
18 application for an amendment to the declaration and amended CIC
19 plat, for the purpose of subdividing or combining the unit or
20 units. The application shall contain, at a minimum, a general
21 description of the proposed subdivision or combination, and
22 shall specify in detail the matters required by ~~paragraphs~~
23 ~~(2)~~ subsection (c)(2) and (3). The basis for disapproval of the
24 application by the association shall be limited to (i) health or
25 safety considerations, (ii) liability considerations for the
26 association and other unit owners, (iii) aesthetic changes to
27 the common elements or another unit, (iv) any material and
28 adverse impact on the common elements or another unit, or (v) a
29 failure to comply with the declaration, this chapter, or
30 governmental laws, ordinances, or regulations. The association
31 shall give written notice of its decision and required changes
32 to the unit owner or owners who made the application. The
33 association shall establish fair and reasonable procedures and
34 time frames for the submission and prompt processing of the
35 applications.

36 (c) If the an application under subsection (b) is approved,

1 the unit owner shall cause an amendment and amended CIC plat to
 2 be prepared based upon the approved application. The amendment
 3 shall:

4 (1) be executed by the association and by each unit owner
 5 and any secured party with respect to the each unit to be
 6 combined or subdivided;

7 (2) assign a unit identifier to each unit created resulting
 8 from the subdivision or combination;

9 (3) reallocate the common element interest, votes in the
 10 association, and common expense liability, as applicable,
 11 formerly allocated to the unit or units to be combined or
 12 subdivided among the unit or units created resulting from the
 13 subdivision or combination on the basis of the formula described
 14 in the declaration; and

15 (4) ~~contain such other provisions as may be reasonably~~
 16 ~~required by the association; and~~

17 (5) conform to the requirements of the declaration and this
 18 chapter. ~~The basis for disapproval shall be limited to (i)~~
 19 ~~structural or safety considerations, (ii) liability~~
 20 ~~considerations for the association and other unit owners, (iii)~~
 21 ~~aesthetic considerations if the changes affect exterior portions~~
 22 ~~of a structure, or (iv) a failure to comply with the~~
 23 ~~declaration, this chapter, or governmental laws, ordinances or~~
 24 ~~regulations. The association shall give written notice of its~~
 25 ~~decision and/or required changes to the unit owner.~~

26 (d) If the association determines that the amendment
 27 conforms and amended CIC plat conform to the approved
 28 application, the declaration, and this chapter, the association
 29 shall be obligated to execute the amendment and cooperate in its
 30 recording cause the amendment and the amended CIC plat to be
 31 recorded. ~~The unit owner shall record the amendment and the~~
 32 ~~amended CIC plat and deliver a copy of the recorded amendment~~
 33 ~~and amended CIC plat to the association.~~ The association may
 34 require the unit owners executing the amendment to pay all fees
 35 and costs for reviewing, preparing, and recording the amendment
 36 and the amended CIC plat, and any other fees or costs incurred

1 by the association in connection therewith.

2 ~~(e)~~ (e) If a the unit is or units are owned
 3 exclusively by a declarant, the declarant shall have the
 4 authority to unilaterally prepare and record, at its expense, an
 5 amendment and an amended CIC plat subdividing, combining, or
 6 converting the unit or units. The amendment shall comply
 7 with ~~the requirements of subsection (b)(1)~~ subsections (c)(1),
 8 (2), (3), and (4), and shall be limited to those provisions
 9 necessary to accomplish the subdivision, combination, or
 10 conversion unless the consent of unit owners required to amend
 11 the declaration is obtained.

12 ~~(d)-If~~ (f) The amended CIC plat shall show the resulting
 13 common elements, limited common elements or units, as
 14 subdivided, combined, or converted.

15 ~~(g)~~ (g) A secured party ~~joins in the amendment pursuant to this~~
 16 ~~section,~~ its party's interest and remedies shall be deemed to
 17 apply to the unit or units ~~and the common element interests~~ that
 18 result from the subdivision or ~~conversion~~ combination of the
 19 unit or units in which the secured party held a security
 20 interest. If the secured party enforces any remedy, including
 21 foreclosure of its lien, against any of the resulting
 22 units created, all instruments and notices relating to the
 23 foreclosure shall describe the subject property in terms of
 24 the amendment and the amended descriptions CIC plat which
 25 created the resulting units.

26 Sec. 14. Minnesota Statutes 2004, section 515B.2-113, is
 27 amended to read:

28 515B.2-113 [ALTERATIONS OF UNITS.]

29 (a) Subject to the provisions of the declaration and
 30 applicable law, a unit owner may, at the unit owner's expense,
 31 make any improvements or alterations to the unit, provided: (i)
 32 that they do not impair the structural integrity or mechanical
 33 systems, affect the common elements, or impair the support of
 34 any portion of the common interest community; (ii) that prior
 35 arrangements are made with the association to ensure that other
 36 unit owners are not disturbed; (iii) that the common elements

1 are not damaged; and (iv) that the common elements and other
2 units are protected against mechanics' liens.

3 (b) Subject to the provisions of applicable law, a unit
4 owner of a unit in residential use may, at the unit owner's
5 expense, make improvements or alterations to the unit as
6 necessary for the full enjoyment of the unit by any person
7 residing in the unit who has a handicap or disability, as
8 provided in the Fair Housing Amendments Act, United States Code,
9 title 42, section 3601, et seq., and the Minnesota Human Rights
10 Act, chapter 363A, and any amendments to those acts.

11 (c) The declaration, bylaws, rules, and regulations, or
12 agreements with the association may not prohibit the
13 improvements or alterations referred to in subsection (b), but
14 may reasonably regulate the type, style, and quality of the
15 improvements or alterations, as they relate to health, safety,
16 and architectural standards. In addition, improvements or
17 alterations made pursuant to subsection (b) must ~~satisfy the~~
18 ~~requirements of~~ comply with subsection (a)(i), (ii), (iii), and
19 (iv).

20 (d) Notwithstanding any contrary provision of section
21 515B.1-102, subsection (b) applies to all common interest
22 communities subject to this chapter, chapter 515, or 515A. The
23 unit owner's rights under this section may not be waived.

24 (e) Subsection (b) does not apply to restrictions on
25 improvements or alterations imposed by statute, rule, or
26 ordinance.

27 (f) Subject to the provisions of the declaration and
28 applicable law, a unit owner may, at the unit owner's expense,
29 after acquiring title to an adjoining unit or an adjoining part
30 of an adjoining unit, with the prior written approval of the
31 association and first mortgagees of the affected units, remove
32 or alter any intervening partition or create apertures therein,
33 even if the partition is part of the common elements, if those
34 acts do not impair the structural integrity or mechanical
35 systems or lessen the support of any portion of the common
36 interest community. The adjoining unit owners shall have the

1 exclusive license to use the space occupied by the removed
2 partition, but the use shall not create an easement or vested
3 right. Removal of partitions or creation of apertures under
4 this paragraph is not an alteration of boundaries. The
5 association may require that the owner or owners of units
6 affected replace or restore any removed partition, that the unit
7 owner comply with subsection (a)(i), (ii) and (iii), and that
8 the unit owner pay all fees and costs incurred by the
9 association in connection with the alteration.

10 Sec. 15. Minnesota Statutes 2004, section 515B.2-118, is
11 amended to read:

12 515B.2-118 [AMENDMENT OF DECLARATION.]

13 (a) The declaration, including any CIC plat, may be amended
14 only by vote or written agreement of unit owners of units to
15 which at least 67 percent of the votes in the association are
16 allocated, or any greater or other requirement the declaration
17 specifies, subject to the following qualifications:

18 (1) A declarant may execute supplemental declarations or
19 amendments under section 515B.2-111 or 515B.2-112.

20 (2) The association and certain unit owners, as applicable,
21 may execute amendments under section 515B.2-107, 515B.2-109,
22 515B.2-112, 515B.2-113, 515B.2-114, 515B.2-119, 515B.2-122,
23 515B.2-123, or 515B.2-124.

24 (3) The unanimous written consent of the unit owners is
25 required for any amendment which (i) creates or increases
26 special declarant rights, (ii) increases the number of units,
27 (iii) changes the boundaries of any unit, (iv) changes the
28 allocated interests of a unit, (v) changes common elements to
29 limited common elements or units, (vi) changes the authorized
30 use of a unit from residential to nonresidential, or conversely,
31 or (vii) changes the characterization of the unit owner's
32 interest in a cooperative from real estate to personal property,
33 or conversely; unless the amendment is expressly permitted or
34 required by other provisions of this chapter. Where the
35 amendment involves the conversion of common elements into a unit
36 or units, the title to the unit or units created shall, upon

1 recording of the amendment, vest in the association free and
2 clear of the interests of the unit owners.

3 (4) The declaration may specify less than 67 percent for
4 approval of an amendment, but only if all of the units are
5 restricted to nonresidential use.

6 (b) No action to challenge the validity of an amendment
7 adopted by the association pursuant to this section may be
8 brought more than two years after the amendment is recorded.

9 (c) Every amendment to the declaration shall be recorded in
10 every county in which any portion of the common interest
11 community is located and is effective only when recorded. If an
12 amendment (i) changes the number of units, (ii) changes the
13 boundary of a unit, (iii) changes common elements to limited
14 common elements, or conversely, or (iv) makes any other change
15 that affects the CIC plat, then an amendment to the CIC plat
16 reflecting the change shall be recorded.

17 Sec. 16. Minnesota Statutes 2004, section 515B.2-119, is
18 amended to read:

19 515B.2-119 [TERMINATION OF COMMON INTEREST COMMUNITY.]

20 (a) Except as otherwise provided in this chapter, a common
21 interest community may be terminated only by agreement of unit
22 owners of units to which at least 80 percent of the votes in the
23 association are allocated, and 80 percent of the first
24 mortgagees of units (each mortgagee having one vote per unit
25 financed), or any larger percentage the declaration specifies.
26 The declaration may specify a smaller percentage only if all of
27 the units are restricted to nonresidential use.

28 (b) An agreement to terminate shall be evidenced by a
29 written agreement, executed in the same manner as a deed by the
30 number of unit owners and first mortgagees of units required by
31 subsection (a). The agreement shall specify a date after which
32 the agreement shall be void unless recorded before that date.
33 The agreement shall also specify a date by which the termination
34 of the common interest community and the winding up of its
35 affairs must be accomplished. A certificate of termination
36 executed by the association evidencing the termination shall be

1 recorded on or before the termination date, or the agreement to
2 terminate shall be revoked. The agreement to terminate, or a
3 memorandum thereof, and the certificate of termination shall be
4 recorded in every county in which a portion of the common
5 interest community is situated and is effective only upon
6 recording.

7 (c) In the case of a condominium or planned community
8 containing only units having upper and lower boundaries, a
9 termination agreement may provide that all of the common
10 elements and units of the common interest community must be sold
11 following termination. If, pursuant to the agreement, any real
12 estate in the common interest community is to be sold following
13 termination, the termination agreement shall set forth the
14 minimum terms of sale acceptable to the association.

15 (d) In the case of a condominium or planned community
16 containing any units not having upper and lower boundaries, a
17 termination agreement may provide for sale of the common
18 elements, but it may not require that the units be sold
19 following termination, unless the original declaration provided
20 otherwise or all unit owners whose units are to be sold consent
21 to the sale.

22 (e) The association, on behalf of the unit owners, shall
23 have authority to contract for the sale of real estate in a
24 common interest community pursuant to this section, subject to
25 the required approval. The agreement to terminate shall be
26 deemed to grant to the association a power of attorney coupled
27 with an interest to effect the conveyance of the real estate on
28 behalf of the holders of all interests in the units, including
29 without limitation the power to execute all instruments of
30 conveyance and related instruments. Until the sale has been
31 completed, all instruments in connection with the sale have been
32 executed and the sale proceeds distributed, the association
33 shall continue in existence with all powers it had before
34 termination.

35 (1) The instrument conveying or creating the interest in
36 the common interest community shall include as exhibits (i) an

1 affidavit of the secretary of the association certifying that
2 the approval required by this section has been obtained and (ii)
3 a schedule of the names of all unit owners in the common
4 interest community as of the date of the approval.

5 (2) Proceeds of the sale shall be distributed to unit
6 owners and secured parties as their interests may appear, in
7 accordance with subsections (h), (i), (j), and (k).

8 (3) Unless otherwise specified in the agreement of
9 termination, until the association has conveyed title to the
10 real estate, each unit owner and the unit owner's successors in
11 interest have an exclusive right to occupancy of the portion of
12 the real estate that formerly constituted the unit. During the
13 period of that occupancy, each unit owner and the unit owner's
14 successors in interest remain liable for all assessments and
15 other obligations imposed on unit owners by this chapter, the
16 declaration or the bylaws.

17 (f) The legal description of the real estate constituting
18 the common interest community shall, upon the date of recording
19 of the certificate of termination referred to in subsection (b),
20 be as follows:

21 (1) In a planned community utilizing a CIC plat complying
22 with section 515B.2-110(d)(1) and (2), the lot and block
23 description contained in the CIC plat, and any amendments
24 thereto, subject to any subsequent conveyance or taking of a fee
25 interest in any part of the property.

26 (2) In a condominium or cooperative, or a planned community
27 utilizing a CIC plat complying with section 515B.2-110(c), the
28 underlying legal description of the real estate as set forth in
29 the declaration creating the common interest community, and any
30 amendments thereto, subject to any subsequent conveyance or
31 taking of a fee interest in any part of the property.

32 (3) The legal description referred to in this subsection
33 shall apply upon the recording of the certificate of
34 termination. The recording officer for each county in which the
35 common interest community is located shall index the property
36 located in that county in its records under the legal

1 description required by this subsection from and after the date
2 of recording of the certificate of termination. In the case of
3 registered property, the registrar of titles shall cancel the
4 existing certificates of title with respect to the property and
5 issue one or more certificates of title for the property
6 utilizing the legal description required by this subsection.

7 (g) In a condominium or planned community, if the agreement
8 to terminate provides that the real estate constituting the
9 common interest community is not to be sold following
10 termination, title to the common elements and, in a common
11 interest community containing only units having upper and lower
12 boundaries described in the declaration, title to all the real
13 estate in the common interest community, vests in the unit
14 owners upon termination as tenants in common in proportion to
15 their respective interest as provided in subsection (k), and
16 liens on the units shift accordingly. While the tenancy in
17 common exists, each unit owner and the unit owner's successors
18 in interest have an exclusive right to occupancy of the portion
19 of the real estate that formerly constituted the unit.

20 (h) The proceeds of any sale of real estate pursuant to
21 subsection (e), together with the assets of the association,
22 shall be held by the association as trustee for unit owners,
23 secured parties and other holders of liens on the units as their
24 interests may appear. Before distributing any proceeds, the
25 association shall have authority to deduct from the proceeds of
26 sale due with respect to the unit (i) unpaid assessments levied
27 by the association with respect to the unit, (ii) unpaid real
28 estate taxes or special assessments due with respect to the
29 unit, and (iii) the share of expenses of sale and winding up of
30 the association's affairs with respect to the unit.

31 (i) Following termination of a condominium or planned
32 community, creditors of the association holding liens on the
33 units perfected before termination may enforce those liens in
34 the same manner as any lien holder, in order of priority based
35 upon their times of perfection. All other creditors of the
36 association are to be treated as if they had perfected liens on

1 the units immediately before termination.

2 (j) In a cooperative, the declaration may provide that all
3 creditors of the association have priority over any interests of
4 unit owners and creditors of unit owners. In that event,
5 following termination, creditors of the association holding
6 liens on the cooperative which were perfected before termination
7 may enforce their liens in the same manner as any lien holder,
8 in order of priority based upon their times of perfection. All
9 other creditors of the association shall be treated as if they
10 had perfected a lien against the cooperative immediately before
11 termination. Unless the declaration provides that all creditors
12 of the association have that priority:

13 (1) the lien of each creditor of the association which was
14 perfected against the association before termination becomes,
15 upon termination, a lien against each unit owner's interest in
16 the unit as of the date the lien was perfected;

17 (2) any other creditor of the association is to be treated
18 upon termination as if the creditor had perfected a lien against
19 each unit owner's interest immediately before termination;

20 (3) the amount of the lien of an association's creditor
21 described in paragraphs (1) and (2) against each of the unit
22 owners' interest shall be proportionate to the ratio which each
23 unit's common expense liability bears to the common expense
24 liability of all of the units;

25 (4) the lien of each creditor of each unit owner which was
26 perfected before termination continues as a lien against that
27 unit owner's interest in the unit as of the date the lien was
28 perfected; and

29 (5) the assets of the association shall be distributed to
30 all unit owners and all lien holders as their interests may
31 appear in the order described in this section. Creditors of the
32 association are not entitled to payment from any unit owner in
33 excess of the amount of the creditor's lien against that unit
34 owner's interest.

35 (k) The respective interest of unit owners referred to in
36 subsections (e), (f), (g), (h) and (i) are as follows:

1 (1) Except as provided in paragraph (2), the respective
2 interests of unit owners are the fair market values of their
3 units, allocated interests, and any limited common elements
4 immediately before the termination, as determined by one or more
5 independent appraisers selected by the association. The
6 decision of the independent appraisers must be distributed to
7 the unit owners and becomes final unless disapproved within 30
8 days after distribution by unit owners of units to which 25
9 percent of the votes in the association are allocated. The
10 proportion of any unit's interest to that of all units is
11 determined by dividing the fair market value of that unit by the
12 total fair market values of all the units.

13 (2) If any unit or any limited common element is destroyed
14 to the extent that an appraisal of the fair market value thereof
15 before destruction cannot be made, the interests of all unit
16 owners ~~are~~ shall be measured by: (i) in a condominium,
17 their respective allocations of common element interests
18 immediately before the termination, (ii) in a cooperative, their
19 respective ownership interests immediately before the
20 termination, and (iii) in a planned community, their
21 respective allocations of common expense-liabilities expenses
22 immediately before the termination.

23 (1) In a condominium or planned community, except as
24 provided in subsection (m), foreclosure or enforcement of a lien
25 or encumbrance against the entire common interest community does
26 not terminate, of itself, the common interest community, and
27 foreclosure or enforcement of a lien or encumbrance against a
28 portion of the common interest community does not withdraw that
29 portion from the common interest community.

30 (m) In a condominium or planned community, if a lien or
31 encumbrance against a portion of the real estate comprising the
32 common interest community has priority over the declaration and
33 the lien or encumbrance has not been partially released, the
34 parties foreclosing the lien or encumbrance, upon foreclosure,
35 may record an instrument excluding the real estate subject to
36 that lien or encumbrance from the common interest community.

1 (n) Following the termination of a common interest
2 community in accordance with this section, the board of
3 directors of the association shall cause the association to be
4 dissolved in accordance with law.

5 Sec. 17. Minnesota Statutes 2004, section 515B.2-121, is
6 amended to read:

7 515B.2-121 [MASTER ASSOCIATIONS.]

8 (a) A master association formed after June 1, 1994, shall
9 be organized as a Minnesota profit, nonprofit or cooperative
10 corporation. A master association shall be incorporated prior
11 to the delegation to it of any powers under this chapter.

12 (b) The members of the master association shall be any
13 combination of (i) unit owners of one or more common interest
14 communities, (ii) one or more associations, (iii) one or more
15 master associations, or (iv) owners of real estate or property
16 owners owner's associations not subject to this chapter in
17 combination with any other category of member. An association
18 or its members may be members of an entity created before June
19 1, 1994, which performs functions similar to those performed by
20 a master association regardless of whether the entity is subject
21 to this chapter.

22 (c) A master association shall be governed by a board of
23 directors. Except as expressly prohibited by the master
24 declaration, the master association's articles of incorporation
25 or bylaws, or other provisions of this chapter, the master
26 association board may act in all instances on behalf of the
27 master association. The directors of a master association shall
28 be elected or, if a nonprofit corporation, elected or appointed,
29 in a manner consistent with the requirements of the statute
30 under which the master association is formed and of the master
31 association's articles of incorporation and bylaws, and subject
32 to the following requirements:

33 (1) Except as set forth in subsections (2) and (3), the
34 members of the master association shall elect the board of
35 directors. A majority of the directors shall be members of the
36 master association or members of a member of the master

1 association, and shall be persons other than a declarant or
2 affiliate of a declarant. If the member is not a natural
3 person, it may designate a natural person to act on its behalf.

4 (2) The articles of incorporation or bylaws of the master
5 association may authorize a any person other-than, whether or
6 not the person is a member of, or otherwise subject to, the
7 master association ~~or-a-unit-owner~~, including a declarant, to
8 appoint or elect one director.

9 (3) A master association's articles of incorporation may
10 suspend the members' right to elect or, in the case of a
11 nonprofit corporation, elect or appoint, the master
12 association's board of directors for a specified time period.
13 During this period, the person or persons who execute the master
14 declaration under subsection (f)(1), or their successors or
15 assigns, may appoint the directors. The period during which the
16 person or persons may appoint the directors begins when the
17 master declaration is recorded and terminates upon the earliest
18 of:

19 (i) the voluntary surrender of the right to appoint
20 directors;

21 (ii) the date ten years after the date the master
22 declaration is recorded;

23 (iii) the date, if any, in the articles of incorporation;
24 or

25 (iv) the date when at least 75 percent of the ~~associations~~
26 ~~that-are-members-of-the-master-association-or-whose-members-are~~
27 ~~members-of-the-master-association-are-controlled-by-their~~
28 ~~members.--An-association's-members-control-the-association-when~~
29 ~~they-have-the-right-to-elect-or-appoint-a-majority-of-the~~
30 ~~association's-voting-directors~~ units and other parcels of real
31 estate which are referred to in subsection (f)(1)(vii) have been
32 conveyed to such persons for occupancy by the persons or their
33 tenants.

34 (4) The term of any director appointed under subsection (3)
35 expires 60 days after the right to appoint directors
36 terminates. The master association's board of directors shall

1 call an annual or special meeting of the master association's
2 members to elect or appoint successor directors within the
3 60-day period.

4 (5) The system for the election of directors shall be fair
5 and equitable and shall take into account the number of members
6 of each association any of whose powers are delegated to the
7 master association, the needs of the members of the master
8 association, the allocation of liability for master association
9 common expenses, and the types of common interest communities
10 and other real estate subject to the master association.

11 (d) The articles of incorporation or bylaws of the master
12 association may authorize special classes of directors and
13 allocations of director voting rights, as follows: (i) classes
14 of directors that are elected by different classes of members,
15 to address operational, physical, or administrative differences
16 within the master association, or (ii) class voting by the
17 classes of directors on specific issues affecting only a certain
18 class or classes of members ~~or~~, units or other parcels of real
19 estate, or to otherwise protect the legitimate interests of such
20 class or classes. No person may utilize such special classes or
21 allocations for the purpose of evading any limitation imposed on
22 declarants by this chapter.

23 (e) The officers of a master association shall be elected,
24 appointed, or designated in a manner consistent with the statute
25 under which the master association is formed and consistent with
26 the master association articles of incorporation and bylaws.

27 (f) The creation and authority of a master association
28 shall be governed by the following requirements:

29 (1) A master declaration shall be recorded in connection
30 with the creation of a master association. The master
31 declaration shall be executed by the owners of the real estate
32 subjected to the master declaration. The master declaration
33 shall contain, at a minimum:

34 (i) the name of the master association;

35 (ii) a legally sufficient description of the real estate
36 which is subject to the master declaration and a legally

1 sufficient description of any other real estate which may be
2 subjected to the master declaration pursuant to subsection (g);

3 (iii) a statement as to whether the real estate subject to,
4 and which may be subjected to, the master declaration
5 collectively is or collectively will be a separate common
6 interest community;

7 (iv) a description of the members of the master
8 association;

9 (v) a description of the master association's powers. To
10 be-exercised-by-the-master-association-on-behalf-of-its-members
11 and-on-behalf-of-the-members-of-its-members-in-the-case-of
12 members-that-are-common-interest-communities.---The-provisions-of
13 the-master-declaration-with-respect-to-the-grant-and-exercise-of
14 powers-for-common-interest-communities-subject-to-the-master
15 association-shall-be-consistent-with-the-declarations-of-the
16 common-interest-communities-that-delegate-powers-to-the-master
17 association the extent described in the master declaration, a
18 master association has the powers with respect to the master
19 association's members and the property subject to the master
20 declaration that section 515B.3-102 grants to an association
21 with respect to the association's members and the property
22 subject to the declaration. A master association also has the
23 powers delegated to it by an association pursuant to subsection
24 (f)(2) or by a property owner's association not subject to the
25 chapter; provided (i) that the master declaration identifies the
26 powers and authorizes the delegation either expressly or by a
27 grant of authority to the board of the association or property
28 owner's association and (ii) that the master association board
29 has not refused the delegation pursuant to subsection (f)(4).
30 The provisions of the declarations of the common interest
31 communities, or the provisions of recorded instruments governing
32 other property subject to the master declaration, that delegate
33 powers to the master association shall be consistent with the
34 provisions of the master declaration that govern the delegation
35 of the powers;

36 (vi) a description of the ~~formula~~ formulas governing the

1 allocation of assessments and member voting rights, including
 2 any special classes or allocations referred to in subsection
 3 (d); and

4 (vii) a statement of the total number of units and other
 5 parcels of real estate intended for residential use by a person
 6 or the person's tenants that are (i) subject to the master
 7 declaration as initially recorded and (ii) intended to be
 8 created by the addition of real estate or by the subdivision of
 9 units or other parcels of real estate; and

10 (viii) the requirements for amendment of the master
 11 declaration, other than an amendment under subsection (g).

12 ~~(2) The declaration of a common interest community subject~~
 13 ~~to the master association shall contain provisions delegating~~
 14 ~~or authorizing the delegation of powers to the master~~
 15 ~~association in accordance with subsection (f)(3).--The~~
 16 ~~provisions of the declarations relating to the delegation shall~~
 17 ~~be consistent with the provisions of the master declaration~~
 18 ~~granting or reserving those powers to the master association.~~

19 {3} The declaration of a common interest community located
 20 on property subject to a master declaration may:

21 (i) delegate any of the powers described in section
 22 515B.3-102 to a the master association; provided, that a
 23 delegation of the powers described in section 515B.3-102(a)(2)
 24 is effective only if expressly stated in the declaration; and

25 (ii) authorize the board to delegate any of the powers
 26 described in section 515B.3-102, except for the powers described
 27 in section 515B.3-102(a)(2), to a the master association.

28 {4} (3) With respect to any other property subject to a
 29 master association, there need not be an instrument other than
 30 the master declaration recorded against the property to empower
 31 the master association to exercise powers with respect to the
 32 property.

33 {5} (4) If a declaration or other recorded instrument
 34 authorizes a the board or owner the board of a property owner's
 35 association to delegate powers to a master association, the
 36 master association board may refuse any delegation of powers

1 that does not comply with (i) this chapter, (ii) the declaration
2 or other recorded instrument, or (iii) the organizational
3 documents of the master association.

4 ~~(6)~~ (5) The failure of a declaration, a board or an owner
5 of property subject to a master association to properly delegate
6 some or all of the powers to the master association does not
7 affect the authority of the master association to exercise those
8 and other powers with respect to other common interest
9 communities or owners of properties that are subject to the
10 master association.

11 (g) The master declaration may authorize other real estate
12 to be subjected to the master declaration. The other real
13 estate shall be subjected to the master declaration by an
14 amendment executed by the owner of the other real estate and
15 ~~approved-in-writing-by-the-person-who-executed~~ any other person
16 or persons required by the master declaration, ~~if-other-than-the~~
17 ~~owner-of-the-other-real-estate~~ and recorded.

18 (h) Sections 515B.3-103(a), (b), and (g), 515B.3-108,
19 515B.3-109, 515B.3-110, and 515B.3-112 shall apply in the
20 conduct of the affairs of a master association. But the rights
21 of voting, notice, and other rights enumerated in those sections
22 apply ~~only~~ to persons who elect or appoint the board of a master
23 association, whether or not those persons are otherwise unit
24 owners within the meaning of this chapter.

25 (i) If so provided in the master declaration, a master
26 association may levy assessments for common expenses of the
27 master association against the property subject to the master
28 declaration, and have and foreclose liens securing the
29 assessments. The liens shall have the same priority against
30 secured parties, shall include the same fees and charges, and
31 may be foreclosed in the same manner, as assessment liens under
32 section 515B.3-116. The master association's lien shall have
33 priority as against the lien of an association or property
34 owner's association subject to the master association,
35 regardless of when the lien arose or was perfected.

36 (l) Master association common expenses shall be allocated

1 among the members of the master association in a fair and
2 equitable manner. If the members ~~are~~ include associations or
3 property owners⁺ owner's associations, then the master
4 assessments may be allocated among and levied against the
5 associations or property owner's associations, or allocated
6 among and levied ~~directly~~ against the units or other parcels of
7 real estate owned by the members of the association or property
8 owner's association. If so provided in the master declaration,
9 master assessments levied against a member association or
10 property owner's association are allocated among and levied
11 against the units or other parcels of real estate owned by the
12 members of the association or property owner's association. If
13 applicable and appropriate, the formulas and principles
14 described in section 515B.2-108, subsections (b), (c), (d), and
15 (e), shall be used in making the allocations. The assessment
16 formulas and procedures described in the declarations of any
17 common interest communities or any instruments governing other
18 real estate subject to the master association shall not conflict
19 with the formulas and procedures described in the master
20 declaration.

21 (2) The master declaration may exempt from liability for
22 all or a portion of master association assessments any person
23 authorized by subsection (c)(3) to appoint the members of the
24 master association board ~~for-master-association-common-expenses,~~
25 or any other person, and exempt any unit or other parcel of real
26 estate owned by the person from a lien for such ~~common-expenses~~
27 assessments, until a ~~dwelli~~ dwelling building constituting or located
28 within the unit or other parcel of real estate is substantially
29 completed. Substantial completion shall be evidenced by a
30 certificate of occupancy in a jurisdiction that issues that
31 certificate.

32 (j) A master association shall not be used, directly or
33 indirectly, to avoid or nullify any warranties or other
34 obligations for which a declarant of a common interest community
35 subject to the master association is responsible, or to
36 otherwise avoid the requirements of this chapter.

1 Sec. 18. Minnesota Statutes 2004, section 515B.2-123, is
2 amended to read:

3 515B.2-123 [CHANGE OF FORM OF COMMON INTEREST COMMUNITY.]

4 (a) The legal form of a condominium, planned community or
5 cooperative subject to this chapter may be changed to a
6 condominium or planned community, subject to any requirements
7 contained in the declaration or bylaws of the common interest
8 community, and the following requirements:

9 (1) Subject to paragraphs (2) and (3), the change of form
10 shall be approved in writing by the unit owners of units to
11 which at least 80 percent of the votes in the association are
12 allocated, and 80 percent of the first mortgagees of record of
13 the units (each mortgagee having one vote per unit financed).
14 The declaration or bylaws may specify a smaller percentage only
15 if all of the units are restricted to nonresidential use. ~~The~~
16 ~~approval shall include the approval of~~ A declaration and bylaws
17 ~~satisfying the requirements of~~ complying with this chapter shall
18 be approved, subject to the foregoing approval standards, with
19 respect to the new common interest community.

20 (2) If the period of declarant control has not expired, the
21 change of form shall also be approved in writing by the
22 declarant.

23 (3) If the existing common interest community is a
24 cooperative, the change of form shall also be approved in
25 writing by (i) each holder of a blanket mortgage of record and
26 (ii) 80 percent of the secured parties holding interests in
27 share loans encumbering the cooperative units or memberships
28 (each secured party having one vote per share loan owned).

29 (b) Upon approval as provided in subsection (a), the
30 association in the existing common interest community shall have
31 authority to execute the declaration of the new common interest
32 community on behalf of the unit owners of, and all other persons
33 holding an interest in, the units or other property which is a
34 part of the existing common interest community, and to do all
35 other acts necessary to create the new common interest community.

36 (c) Upon approval as provided in subsection (a), the

1 association in the existing common interest community shall have
2 a power of attorney coupled with an interest to effect the
3 conveyance of the units or any other real estate owned by the
4 unit owners or the association, which is a part of the existing
5 common interest community, on behalf of the unit owners and all
6 other holders of interests in the common interest community,
7 including without limitation the power to execute all
8 instruments of conveyance and related instruments.

9 (d) In a change of legal form under this section, the
10 offer, conveyance or exchange of a unit in the new common
11 interest community to or with the person owning the unit in the
12 existing common interest community shall not be subject to
13 article 4 of this chapter.

14 (e) A change of legal form under this section shall not
15 affect any preexisting obligations or liabilities of a declarant
16 under any statute, or under the disclosure statement,
17 declaration or bylaws of the existing common interest
18 community. The declarant of the existing common interest
19 community shall continue to have the rights and obligations of a
20 declarant with respect to the offer and sale of units owned by
21 it or its affiliates in the new common interest community.

22 Sec. 19. Minnesota Statutes 2004, section 515B.2-124, is
23 amended to read:

24 515B.2-124 [SEVERANCE OF COMMON INTEREST COMMUNITY.]

25 (a) Unless the declaration provides otherwise, a part of a
26 common interest community containing one or more units, with or
27 without common elements, may be severed from the common interest
28 community, subject to the requirements of this section. Subject
29 to any additional requirements contained in the declaration, the
30 severance shall be approved in a written severance
31 agreement ~~satisfying-the-requirements-of~~ complying with this
32 section, executed by:

33 (1) unit owners entitled to cast at least 67 percent of the
34 votes in the association, which approval shall include the
35 approval of unit owners entitled to cast a majority of the votes
36 allocated to units in the remaining common interest community

1 and the approval of unit owners entitled to cast a majority of
2 the votes allocated to units in the part of the common interest
3 community being severed;

4 (2) declarant until the earlier of five years after the
5 recording of the declaration or the time at which declarant no
6 longer owns an unsold unit; and

7 (3) in the case of a cooperative, all holders of mortgages
8 or contracts for deed on the entire real estate constituting the
9 cooperative.

10 (b) The declaration may specify a smaller percentage for
11 unit owner approval only if all of the units are restricted to
12 nonresidential use.

13 (c) The severance agreement shall specify a severance date
14 by which the severance of the common interest community shall be
15 accomplished, after which the severance agreement is void. The
16 severance agreement shall be deemed to grant to the association
17 a power of attorney coupled with an interest to effect the
18 severance of the common interest community on behalf of the unit
19 owners and the holders of all other interests in the units,
20 including without limit the power to execute the amendment to
21 the declaration, any instruments of conveyance, and all related
22 instruments.

23 (d) The severance agreement shall:

24 (1) Approve an amendment to the declaration complying with
25 this chapter, in substantially the same form to be recorded,
26 which, at a minimum (i) legally describes the real estate
27 constituting the remaining common interest community and the
28 real estate being severed, (ii) restates the number of units in
29 the remaining common interest community, (iii) reallocates the
30 interests of the unit owners in the remaining common interest
31 community among the remaining units in accordance with the
32 allocation formula set forth in the declaration, and (iv)
33 recites any easements to which the severed portion of the common
34 interest community remains subject.

35 (2) Approve an amendment to the articles of incorporation
36 and bylaws of the remaining common interest community, if

1 necessary.

2 (3) Authorize the association to execute and record the
3 amended declaration, articles of incorporation or bylaws on
4 behalf of the unit owners and all other persons holding an
5 interest in the remaining common interest community, and to take
6 other actions necessary to accomplish the severance of the
7 common interest community.

8 (4) Allocate the assets and liabilities of the association
9 between the association and (i) a new association formed
10 pursuant to subsection (g), or (ii) the owners of the units
11 being severed, subject to a lien against their interest in the
12 severed real estate or their share in the assets of the
13 association in favor of any person that held a security interest
14 in their unit.

15 (5) If the units that are being severed from the common
16 interest community will not be included in a new common interest
17 community that is (i) formed simultaneously with the severance
18 of the common interest community, and (ii) includes all of the
19 units and substantially all of the common elements being
20 severed, then the agreement shall contain the written consent of
21 holders of first mortgages on all units that are being severed,
22 and shall describe in detail the proposed disposition of all
23 real estate to be severed and all assets of the association
24 allocated to the severed units, and the distribution of the
25 proceeds of the disposition, if any.

26 (e) The severance agreement or a memorandum of it shall be
27 recorded in every county in which a part of the common interest
28 community is located. The recording of the severance agreement
29 or memorandum of it shall, from the date of recording,
30 constitute notice to all persons subsequently acquiring an
31 interest in the common interest community that the common
32 interest community is being severed, and that those persons
33 acquire their interests subject to the terms and conditions
34 contained in the severance agreement and the amendment to the
35 declaration.

36 (f) The amendment to the declaration of the remaining

1 common interest community shall be recorded on or before the
2 severance date or the severance agreement and the amendment to
3 the declaration is void as of the day after the severance date.
4 The recording of the amendment to the declaration shall complete
5 the severance of the common interest community and release the
6 severed part of the common interest community from the
7 declaration without further action by any person.

8 (g) If the unit owners whose units are being severed from
9 the common interest community intend to form a new common
10 interest community, then said unit owners shall unanimously, by
11 at least 80 percent of the votes allocated by the existing
12 declaration to said units, approve a new declaration, articles
13 of incorporation and bylaws to govern the new common interest
14 community no later than 60 days before the effective date of the
15 severance. The new declaration creating-the-new-common-interest
16 community shall be recorded simultaneously with the amendment to
17 the existing declaration. No later than 30 days before after
18 the effective date of the severance agreement, the unit-owners
19 shall-cause articles of incorporation creating the
20 association governing intended to govern the new common interest
21 community to-be-created-by-filing-the-articles-of-incorporation
22 of-the-association shall be filed with the secretary of state
23 and promptly thereafter the unit owners whose units are being
24 severed shall elect a board of directors to act on behalf of the
25 new association. The board of directors of the new association
26 shall coordinate-the-completion-of-the-severance cooperate with
27 the board of directors of the existing association to complete
28 the severance. The existing association shall retain all
29 authority to act on behalf of the common interest community
30 until the amendment to the existing declaration is and the new
31 declaration are recorded.

32 (h) The legal descriptions of the real estate constituting
33 (i) the remaining common interest community, and (ii) the
34 severed portion of the common interest community shall, at the
35 time of recording of the amendment to the declaration referred
36 to in subsection (e), be as follows:

1 (1) In a planned community using a CIC plat that complies
2 with section 515B.2-110, subsection (d), the lot and block
3 descriptions contained in the CIC plat, and any amendments to
4 it, with respect to (i) the remaining common interest community,
5 and (ii) the severed portion of the common interest community.

6 (2) In a condominium, or cooperative or planned community
7 using a CIC plat that complies with section 515B.2-110,
8 subsection (c), (i) the CIC plat description relating to the
9 remaining common interest community, and (ii) the part of the
10 underlying legal description of the real estate in the
11 declaration creating the common interest community, and any
12 amendments to it, relating to the severed part of the common
13 interest community.

14 (3) The recording officer for each county in which the
15 common interest community is located shall index the property
16 located in that county in its records under the legal
17 descriptions required by this subsection as of the date of
18 recording of the amendment to the declaration. In the case of
19 registered property, the registrar of titles shall cancel the
20 existing certificates of title for the severed part of the
21 common interest community and issue certificates of title for
22 the property using the legal descriptions required by this
23 subsection.

24 (i) In a condominium or planned community, if the severed
25 part of the common interest community is not to be reconstituted
26 as a new common interest community following severance, title to
27 the common elements and, in a common interest community in which
28 all units have upper and lower boundaries described in the
29 declaration title to all the real estate in the severed part of
30 the common interest community, vests in the unit owners of the
31 units being severed, upon severance, as tenants in common in
32 proportion to their respective allocated interests in the
33 declaration, and liens on the units shift accordingly. While
34 the tenancy in common exists, each unit owner and the unit
35 owner's successors in interest have an exclusive right to
36 occupancy of the portion of the real estate that formerly

1 constituted the unit, and a nonexclusive easement across, over
2 and under any common elements contained in the severed portion
3 of the common interest community for enjoyment, access,
4 utilities, communication services, and other essential services,
5 as applicable.

6 (j) No common interest community shall be severed in such a
7 manner as to materially impair access, utility services,
8 communication services, or other essential services with respect
9 to either the remaining common interest community or the severed
10 part of the common interest community.

11 Sec. 20. Minnesota Statutes 2004, section 515B.3-101, is
12 amended to read:

13 515B.3-101 [ORGANIZATION OF UNIT OWNERS' ASSOCIATION.]

14 A common interest community shall be administered by ~~a-unit~~
15 ~~owners~~⁺ an association. The ~~unit-owners~~⁺ association shall be
16 incorporated no later than the date the common interest
17 community is created. The membership of the association at all
18 times consists exclusively of all unit owners or, following
19 termination of the common interest community, of all former unit
20 owners entitled to distributions of proceeds under section
21 515B.2-119 or their heirs, successors, or assigns. The
22 association shall be organized as a Minnesota profit or
23 nonprofit corporation, or may, in the case of a cooperative, be
24 organized under chapter 308A. In the event of a conflict
25 between this chapter and any other chapter under which the
26 association is incorporated, this chapter shall control.

27 Sec. 21. Minnesota Statutes 2004, section 515B.3-102, is
28 amended to read:

29 515B.3-102 [POWERS OF UNIT OWNERS' ASSOCIATION.]

30 (a) Except as provided in subsection (b), and subject to
31 the provisions of the declaration or bylaws, the association
32 shall have the power to:

33 (1) adopt, amend and revoke rules and regulations not
34 inconsistent with the articles of incorporation, bylaws and
35 declaration, as follows: (i) regulating the use of the common
36 elements; (ii) regulating the use of the units, and conduct of

1 unit occupants, which may jeopardize the health, safety or
2 welfare of other occupants, which involves noise or other
3 disturbing activity, or which may damage the common elements or
4 other units; (iii) regulating or prohibiting animals; (iv)
5 regulating changes in the appearance of the common elements and
6 conduct which may damage the common interest community; (v)
7 regulating the exterior appearance of the common interest
8 community, including, for example, balconies and patios, window
9 treatments, and signs and other displays, regardless of whether
10 inside a unit; (vi) implementing the articles of incorporation,
11 declaration and bylaws, and exercising the powers granted by
12 this section; and (vii) otherwise facilitating the operation of
13 the common interest community;

14 (2) adopt and amend budgets for revenues, expenditures and
15 reserves, and levy and collect assessments for common expenses
16 from unit owners;

17 (3) hire and discharge managing agents and other employees,
18 agents, and independent contractors;

19 (4) institute, defend, or intervene in litigation or
20 administrative proceedings (i) in its own name on behalf of
21 itself or two or more unit owners on matters affecting the
22 common elements or other matters affecting the common interest
23 community or, (ii) with the consent of the owners of the
24 affected units on matters affecting only those units;

25 (5) make contracts and incur liabilities;

26 (6) regulate the use, maintenance, repair, replacement, and
27 modification of the common elements and the units;

28 (7) cause improvements to be made as a part of the common
29 elements, and, in the case of a cooperative, the units;

30 (8) acquire, hold, encumber, and convey in its own name any
31 right, title, or interest to real estate or personal property,
32 but (i) common elements in a condominium or planned community
33 may be conveyed or subjected to a security interest only
34 pursuant to section 515B.3-112, or (ii) part of a cooperative
35 may be conveyed, or all or part of a cooperative may be
36 subjected to a security interest, only pursuant to section

1 515B.3-112;

2 (9) grant easements for public utility-easements utilities,
3 public rights-of-way or other public purposes, and cable
4 television or other communications, through, over or under the
5 common elements; grant easements, leases, or licenses to unit
6 owners for purposes authorized by the declaration; and, subject
7 to approval by resolution of unit owners other than declarant or
8 its affiliates ~~at-a-meeting-duly-called,~~ grant other ~~public-or~~
9 ~~private~~ easements, leases, and licenses through, over or under
10 the common elements;

11 (10) impose and receive any payments, fees, or charges for
12 the use, rental, or operation of the common elements, other than
13 limited common elements, and for services provided to unit
14 owners;

15 (11) impose charges for late payment of assessments and,
16 after notice and an opportunity to be heard, levy reasonable
17 fines for violations of the declaration, bylaws, and rules and
18 regulations of the association;

19 (12) impose reasonable charges for the review, preparation
20 and recordation of amendments to the declaration, resale
21 certificates required by section 515B.4-107, statements of
22 unpaid assessments, or furnishing copies of association records;

23 (13) provide for the indemnification of its officers and
24 directors, and maintain directors' and officers' liability
25 insurance;

26 (14) provide for reasonable procedures governing the
27 conduct of meetings and election of directors;

28 (15) exercise any other powers conferred by law, or by the
29 declaration, articles of incorporation or bylaws; and

30 (16) exercise any other powers necessary and proper for the
31 governance and operation of the association.

32 (b) Notwithstanding subsection (a) the declaration or
33 bylaws may not impose limitations on the power of the
34 association to deal with the declarant which are more
35 restrictive than the limitations imposed on the power of the
36 association to deal with other persons.

1 Sec. 22. Minnesota Statutes 2004, section 515B.3-103, is
2 amended to read:

3 515B.3-103 [~~BUY-OF BOARD OF DIRECTORS, OFFICERS DURING,~~
4 AFTER AND DECLARANT CONTROL.]

5 (a) An association shall be governed by a board of
6 directors. Except as expressly prohibited by the declaration,
7 the articles of incorporation, bylaws, subsection (b), or other
8 provisions of this chapter, the board may act in all instances
9 on behalf of the association. In the performance of their
10 duties, the officers and directors are required to exercise (i)
11 if appointed by the declarant, the care required of fiduciaries
12 of the unit owners and (ii) if elected by the unit owners, the
13 care required of a director by section 302A.251 or 317A.251, as
14 applicable.

15 (b) The board may not act unilaterally to amend the
16 declaration, to terminate the common interest community, to
17 elect directors to the board, or to determine the
18 qualifications, powers and duties, or terms of office of
19 directors, but the board may fill vacancies in its membership
20 created other than by removal by the vote of the association
21 members for the unexpired portion of any term.

22 (c) ~~Subject to subsection (d),~~ The declaration may provide
23 for a period of declarant control of the association, during
24 which a declarant, or persons designated by the declarant, may
25 appoint and remove the officers and directors of the
26 association. ~~The maximum period of declarant control may extend~~
27 from begins on the date of the first conveyance of a unit to a
28 unit owner other than a declarant for a period not
29 exceeding creation of the common interest community and
30 terminates upon the earliest of the following events: (i) five
31 years after the date of the first conveyance of a unit to a unit
32 owner other than a declarant in the case of a flexible common
33 interest community or three years in the case of any other
34 common interest community;--Regardless of any longer period
35 provided in the declaration or elsewhere, a period of declarant
36 control shall terminate upon the earlier of (i) surrender of

1 ~~control-by-the-declarant-or-(ii)-60-days-after,~~ (ii) the
2 declarant's voluntary surrender of control by giving written
3 notice to the unit owners pursuant to section 515B.1-115, or
4 (iii) the conveyance of 75 percent of the units to unit owners
5 other than a declarant.

6 ~~Not-later-than-60-days-after-conveyance-of~~ The board
7 shall cause a meeting of the unit owners to be called, as
8 follows:

9 (1) If the period of declarant control has terminated
10 pursuant to subsection (c), a meeting of the unit owners shall
11 be called and held within 60 days after said termination, at
12 which the board shall be elected by all unit owners, including
13 declarant, subject to the requirements of subsection (e).

14 (2) If 50 percent of the units that may-be-created-to-unit
15 owners-other-than-a-declarant-or-an-affiliate-of-a-declarant, a
16 meeting-of-the-unit-owners-shall-be-held a declarant is
17 authorized by the declaration to create have been conveyed prior
18 to the termination of the declarant control period, a meeting of
19 the unit owners shall be called and held within 60 days
20 thereafter, at which not less than 33-1/3 percent of the members
21 of the board shall be elected by unit owners other than a
22 declarant or an affiliate of a declarant.

23 (e) Following the termination of any period of declarant
24 control, the unit owners shall elect the board. All unit
25 owners, including the declarant and its affiliates, may cast the
26 votes allocated to any units owned by them. The board shall
27 thereafter be subject to the following requirements.

28 (1) A majority of the directors shall be unit owners other
29 than a declarant or an affiliate of a declarant, or a natural
30 person designated by a unit owner that is not a natural person.
31 The remaining directors need not be unit owners unless required
32 by the articles of incorporation or bylaws.

33 (2) Subject to the requirements of subsection (1), the
34 articles of incorporation or bylaws may authorize (i) the
35 appointment or election of one director, who need not be a unit
36 owner, by a declarant or by a person or persons other than a

1 unit owner, (ii) classes of directors, and (iii) the election of
2 certain directors by unit owners of a certain class or classes
3 of units. The articles of incorporation or bylaws shall not be
4 amended to change or terminate the authorization described in
5 (i) without the written consent of the declarant or other person
6 possessing the power to appoint or elect.

7 (3) Subject to the requirements of subsection (1), if
8 separate classes of directors are authorized under subsection
9 (2), the articles of incorporation or bylaws may authorize class
10 voting by classes of directors on specified issues affecting
11 only a certain class of units, or to protect the legitimate
12 interests of the class. A person shall not use special class
13 voting to evade any limit imposed on declarants by this chapter.

14 (4) The board shall elect the officers. The directors and
15 officers shall take office upon election.

16 (f) In determining whether the period of declarant control
17 has terminated under subsection (c), or whether unit owners
18 other than a declarant are entitled to elect members of the
19 board of directors under subsection (d), the percentage of the
20 units ~~which has been~~ conveyed shall be calculated ~~based upon the~~
21 ~~assumption that all units which the declarant has built or~~
22 ~~reserved the right to build in the declaration are included in~~
23 ~~the common interest community~~ using as a numerator the number of
24 units conveyed and as a denominator the number of units subject
25 to the declaration plus the number of units which the declarant
26 is authorized by the declaration to create on any additional
27 real estate. The percentages referred to in subsections (c) and
28 (d) shall be calculated without reference to units that are
29 auxiliary to other units, such as garage units or storage
30 units. A person shall not use a master association or other
31 device to evade the requirements of this section.

32 (g) Except as otherwise provided in this subsection,
33 meetings of the board of directors must be open to the unit
34 owners. To the extent practicable, the board shall give
35 reasonable notice to the unit owners of the date, time, and
36 place of a board meeting. If the date, time, and place of

1 meetings are provided for in the declaration, articles, or
2 bylaws, announced at a previous meeting of the board, posted in
3 a location accessible to the unit owners and designated by the
4 board from time to time, or if an emergency requires immediate
5 consideration of a matter by the board, notice is not required.

6 "Notice" has the meaning given in section 317A.011, subdivision
7 14. Meetings may be closed to discuss the following:

8 (1) personnel matters;

9 (2) pending or potential litigation, arbitration or other
10 potentially adversarial proceedings, between unit owners,
11 between the board or association and unit owners, or other
12 matters in which any unit owner may have an adversarial
13 interest, if the board determines that closing the meeting is
14 necessary to discuss strategy or to otherwise protect the
15 position of the board or association or the privacy of a unit
16 owner or occupant of a unit; or

17 (3) criminal activity arising within the common interest
18 community if the board determines that closing the meeting is
19 necessary to protect the privacy of the victim or that opening
20 the meeting would jeopardize investigation of the activity.

21 Nothing in this subsection imposes a duty on the board to
22 provide special facilities for meetings. The failure to give
23 notice as required by this subsection shall not invalidate the
24 board meeting or any action taken at the meeting. The minutes
25 of any part of a meeting that is closed under this subsection
26 may be kept confidential at the discretion of the board.

27 Sec. 23. Minnesota Statutes 2004, section 515B.3-105, is
28 amended to read:

29 515B.3-105 [TERMINATION OF DECLARANT'S CONTRACTS, LEASES.]

30 (a) If entered into prior to ~~expiration~~ termination of the
31 period of declarant control ~~pursuant to section 515B.3-103~~, (i)
32 any management contract, employment contract, or lease of
33 recreational facilities, ~~units,~~ or garages or other parking
34 facilities, (ii) any contract, lease, or license binding the
35 association, and to which a declarant or an affiliate of a
36 declarant is a party, or (iii) any contract, lease or license

1 binding the association or any unit owner other than the
 2 declarant or an affiliate of the declarant which is not bona
 3 fide or which was unconscionable to the unit owners at the time
 4 entered into under the circumstances then prevailing, may be
 5 terminated without penalty by the association ~~at any time after~~
 6 ~~the expiration of declarant control upon not less than 90 days'~~
 7 ~~notice to the other party~~ under the procedures described in this
 8 section.

9 (b) If ~~7~~ during prior to expiration of the suspension period
 10 described in section 515B.2-121, subsection (c), paragraph (3),
 11 a contract, lease, or license of a type described in this
 12 section subsection (a) is entered into by a person having
 13 authority to appoint the directors of the master association and
 14 is binding upon a the master association, then the master
 15 association, and not any association, may terminate the
 16 contract, lease, or license under the procedures described in
 17 this section.

18 (c) Termination shall be upon no less than 90 days' notice.
 19 Notice of termination shall be given by the association or
 20 master association, as applicable, in accordance with section
 21 515B.1-115; provided, that notice shall be effective only if
 22 given within two years following the termination of the period
 23 of declarant control or the suspension period described in
 24 section 515B.2-121, subsection (c), paragraph (3), as applicable.

25 (d) This section does not apply to (i):

26 (1) any lease the termination of which would terminate the
 27 common interest community, ~~(ii) a proprietary lease, or (iii);~~

28 (2) in the case of a cooperative, a mortgage or contract
 29 for deed encumbering a real estate constituting the common
 30 interest community, owned by the association, except that if the
 31 mortgage or contract for deed contains a contractual obligation
 32 involving a type of contract, lease, or license which may be
 33 terminated pursuant to subsection (a) or (b), then that
 34 contractual obligation may be terminated pursuant to subsection
 35 (c); or

36 (3) an agreement between a declarant or an affiliate of a

1 declarant, or a person having authority pursuant to section
2 515B.2-121(c)(3) to appoint the directors of the master
3 association, and any governmental entity, if such agreement is
4 necessary to obtain governmental approvals, provide financing
5 under any type of government program, or provide for
6 governmentally required access, conservation, drainage, or
7 utilities.

8 Sec. 24. Minnesota Statutes 2004, section 515B.3-106, is
9 amended to read:

10 515B.3-106 [BYLAWS; ANNUAL REPORT.]

11 (a) A common interest community shall have bylaws which
12 comply with this chapter and ~~the requirements of~~ the statute
13 under which the association is incorporated. The bylaws and any
14 amendments may be recorded, but need not be recorded to be
15 effective unless so provided in the bylaws.

16 (b) The bylaws shall provide that, in addition to any
17 statutory requirements:

18 (1) A meeting of the members shall be held at least once
19 each year, and a specified officer of the association shall give
20 notice of the meeting as provided in section 515B.3-108.

21 (2) An annual report shall be prepared by the association
22 and a copy of the report shall be provided to each unit owner at
23 or prior to the annual meeting.

24 (c) The annual report shall contain at a minimum:

25 (1) a statement of any capital expenditures in excess of
26 two percent of the current budget or \$5,000, whichever is
27 greater, approved by the association for the current fiscal year
28 or succeeding two fiscal years;

29 (2) a statement of the balance in any reserve or
30 replacement fund;

31 (3) a copy of the statement of revenues and expenses for
32 the association's last fiscal year, and a balance sheet as of
33 the end of said fiscal year;

34 (4) a statement of the status of any pending litigation or
35 judgments to which the association is a party;

36 (5) a detailed description of the insurance coverage

1 provided by the association including a statement as to which,
2 if any, of the items referred to in section 515B.3-113,
3 subsection (b), are insured by the association; and

4 (6) a statement of the total past due assessments on all
5 units, current as of not more than 60 days prior to the date of
6 the meeting.

7 Sec. 25. Minnesota Statutes 2004, section 515B.3-110, is
8 amended to read:

9 515B.3-110 [VOTING; PROXIES.]

10 (a) At any meeting of the association an owner or the
11 holder of the owner's proxy shall be entitled to cast the vote
12 which is allocated to the unit. If there is more than one owner
13 of a unit, only one of the owners may cast the vote. If the
14 owners of a unit fail to agree and notify the association as to
15 who shall cast the vote, the vote shall not be cast. Any
16 provision in the articles of incorporation, bylaws, declaration,
17 or other document restricting a unit owner's right to vote, or
18 affecting quorum requirements, by reason of nonpayment of
19 assessments, or a purported violation of any provision of the
20 documents governing the common interest community, shall be void.

21 (b) If permitted by the articles or bylaws, votes allocated
22 to a unit may be cast pursuant to a proxy executed by the unit
23 owner entitled to cast the vote for that unit. The board may
24 specify the form of proxy and proxy rules, consistent with law.

25 (c) The entire vote on any single issue (except the
26 election of directors), may be by mailed ballots, subject to (i)
27 any prohibition or requirement contained in the articles of
28 incorporation, bylaws, or declaration and (ii) any requirements
29 of the statute under which the association is created. Such a
30 vote shall have the force and effect of a vote taken at a
31 meeting; provided, that the total votes cast are at least equal
32 to the votes required for a quorum. The board shall set a
33 voting period within which the ballots must be returned, which
34 period shall be not less than ten nor more than 30 days after
35 the date of mailing or hand delivery of the ballots to the
36 owners. The board of directors shall provide written notice of

1 the results of the vote to the members within 30 days after the
2 expiration of the voting period. All requirements in this
3 chapter, the declaration or the bylaws for a meeting of the
4 members, or being present in person, shall be deemed satisfied
5 by a vote taken by mail in compliance with the requirements of
6 this section.

7 (d) The articles of incorporation or bylaws may authorize
8 class voting by unit owners for directors or on specified issues
9 affecting the class. Class voting may only be used to address
10 operational, physical, or administrative differences within the
11 common interest community. A declarant shall not use class
12 voting to evade any limit imposed on declarants by this chapter
13 and units shall not constitute a class because they are owned by
14 a declarant.

15 (e) The declaration or bylaws may provide that votes on
16 specified matters affecting the common interest community be
17 cast by lessees or secured parties rather than unit owners;
18 provided that (i) the provisions of subsections (a), (b), and (c)
19 apply to those persons as if they were unit owners; (ii) unit
20 owners who have so delegated their votes to other persons may
21 not cast votes on those specified matters; (iii) lessees or
22 secured parties are entitled to notice of meetings, access to
23 records, and other rights respecting those matters as if they
24 were unit owners, and (iv) the lessee or secured party has filed
25 satisfactory evidence of its interest with the secretary of the
26 association prior to the meeting. Unit owners must also be
27 given notice, in the manner provided in section 515B.3-108(b),
28 of meetings at which lessees or secured parties are entitled to
29 vote.

30 (f) No votes allocated to a unit owned by the association
31 may be cast nor counted toward a quorum.

32 Sec. 26. Minnesota Statutes 2004, section 515B.3-112, is
33 amended to read:

34 515B.3-112 [CONVEYANCE OR ENCUMBRANCE OF, OR CREATION OF
35 SECURITY INTERESTS IN, COMMON ELEMENTS.]

36 (a) In a condominium or planned community, unless the

1 declaration provides otherwise, portions of the common elements
2 may be conveyed or subjected to a security interest by the
3 association if persons entitled to cast at least 67 percent of
4 the votes in the association, including 67 percent of the votes
5 allocated to units not owned by a declarant, or any larger
6 percentage the declaration specifies, approve that action in
7 writing or at a meeting; but all unit owners of units to which
8 any limited common element is allocated must agree in order to
9 convey that limited common element or subject it to a security
10 interest. The declaration may specify a smaller percentage only
11 if all of the units are restricted to nonresidential use.

12 (b) In a cooperative, unless the declaration provides
13 otherwise, part of a cooperative may be conveyed, or all or a
14 part subjected to a security interest, by the association if
15 persons entitled to cast at least 67 percent of the votes in the
16 association, including 67 percent of the votes allocated to
17 units in which the declarant has no interest, or any larger
18 percentage the declaration specifies, approves that action in
19 writing or at a meeting. If fewer than all of the units or
20 limited common elements are to be conveyed or subjected to a
21 security interest, then all unit owners of those units, or the
22 units to which those limited common elements are allocated, must
23 agree in order to convey those units or limited common elements
24 or subject them to a security interest. The declaration may
25 specify a smaller percentage only if all of the units are
26 restricted to nonresidential use. Any purported conveyance or
27 other voluntary transfer of an entire cooperative is void,
28 unless made pursuant to section 515B.2-119.

29 (c) The association, on behalf of the unit owners, may
30 contract to convey or encumber an interest in the common
31 elements of a common interest community pursuant to this
32 subsection, subject to the required approval. After the
33 approval has been obtained, the association shall have a power
34 of attorney coupled with an interest to effect the conveyance or
35 encumbrance on behalf of all unit owners in the common interest
36 community, including the power to execute deeds, mortgages, or

1 other instruments of conveyance or security. The instrument
2 conveying or creating the interest in the common interest
3 community shall be recorded and shall include as exhibits (i) an
4 affidavit of the secretary of the association certifying that
5 the approval required by this section has been obtained and (ii)
6 a schedule of the names of all unit owners and units in the
7 common interest community as of the date of the approval.

8 (d) ~~Except as provided in section 515B.3-102(a)(9),~~ Unless
9 made pursuant to this section, any purported conveyance,
10 ~~encumbrance,~~ creation of a security interest in or other
11 voluntary transfer of any interest in the common elements, or of
12 any part of a cooperative, is void. The grant of an easement,
13 lease, or license pursuant to section 515B.3-102(a)(9) is not
14 subject to this section.

15 (e) In the case of a conveyance involving a condominium, a
16 planned community utilizing a CIC plat complying with section
17 515B.2-110(c), or a cooperative in which the unit owners'
18 interests are characterized as real estate, the association
19 shall record, simultaneously with the recording of the
20 instrument of conveyance, an amended CIC plat showing the real
21 estate constituting the common interest community exclusive of
22 the real estate conveyed. In all common interest communities,
23 upon recording of the instrument of conveyance, the declaration,
24 and all rights and obligations arising therefrom, shall be
25 deemed released and terminated as to the real estate conveyed.

26 (f) A conveyance or encumbrance of common elements, or of a
27 cooperative, pursuant to this section shall not deprive any unit
28 of its rights of support, reasonable access or utility services.

29 (g) Except as provided in subsection (a), or unless the
30 declaration otherwise provides, a conveyance or encumbrance of
31 common elements pursuant to this section does not affect the
32 priority or validity of preexisting encumbrances.

33 (h) Any proceeds of the conveyance or creation of a
34 security interest under this section are an asset of the
35 association.

36 (i) This section shall not apply to any conveyance or

1 encumbrance of any interest in a proprietary lease.

2 Sec. 27. Minnesota Statutes 2004, section 515B.3-113, is
3 amended to read:

4 515B.3-113 [INSURANCE.]

5 (a) Commencing not later than the time of the first
6 conveyance of a unit to a unit owner other than a declarant, the
7 association shall maintain, to the extent reasonably available:

8 (1) subject to subsection (b), property insurance (i) on
9 the common elements and, in a planned community, also on
10 property that must become common elements, (ii) for broad form
11 covered causes of loss, and (iii) in a total amount of not less
12 than the full insurable replacement cost of the insured
13 property, less deductibles, at the time the insurance is
14 purchased and at each renewal date, exclusive of items normally
15 excluded from property policies; and

16 (2) commercial general liability insurance against claims
17 and liabilities arising in connection with the ownership,
18 existence, use or management of the property in an amount, if
19 any, specified by the common interest community instruments or
20 otherwise deemed sufficient in the judgment of the board,
21 insuring the board, the association, the management agent, and
22 their respective employees, agents and all persons acting as
23 agents. The declarant shall be included as an additional
24 insured in its capacity as a unit owner or board member. The
25 unit owners shall be included as additional insureds but only
26 for claims and liabilities arising in connection with the
27 ownership, existence, use or management of the common elements.
28 The insurance shall cover claims of one or more insured parties
29 against other insured parties.

30 (b) In the case of a common interest community that
31 contains units, or structures within units, sharing or having
32 contiguous walls, siding or roofs, the insurance maintained
33 under subsection (a)(1) shall include those units, or structures
34 within those units, and the common elements. The insurance need
35 not cover the following items within the units: (i) ceiling or
36 wall finishing materials, (ii) floor coverings, (iii) cabinetry,

1 (iv) finished millwork, (v) electrical or plumbing fixtures
2 serving a single unit, (vi) built-in appliances, or (vii) other
3 improvements and betterments, regardless of when installed. If
4 any improvements and betterments are covered, any increased cost
5 may be assessed by the association against the units affected.
6 The association may, in the case of a claim for damage to a unit
7 or units, (i) pay the deductible amount as a common expense,
8 (ii) assess the deductible amount against the units affected in
9 any reasonable manner, or (iii) require the unit owners of the
10 units affected to pay the deductible amount directly.

11 (c) If the insurance described in subsections (a) and (b)
12 is not reasonably available, the association shall promptly
13 cause notice of that fact to be hand delivered or sent prepaid
14 by United States mail to all unit owners. The declaration may
15 require the association to carry any other insurance, and the
16 association in any event may carry any other insurance it
17 considers appropriate to protect the association, the unit
18 owners or officers, directors or agents of the association.

19 (d) Insurance policies carried pursuant to subsections (a)
20 and (b) shall provide that:

21 (1) each unit owner and secured party is an insured person
22 under the policy with respect to liability arising out of the
23 unit owner's interest in the common elements or membership in
24 the association;

25 (2) the insurer waives its right to subrogation under the
26 policy against any unit owner of the condominium or members of
27 the unit owner's household and against the association and
28 members of the board of directors;

29 (3) no act or omission by any unit owner or secured party,
30 unless acting within the scope of authority on behalf of the
31 association, shall void the policy or be a condition to recovery
32 under the policy; and

33 (4) if at the time of a loss under the policy there is
34 other insurance in the name of a unit owner covering the same
35 property covered by the policy, the association's policy is
36 primary insurance.

1 (e) Any loss covered by the property policy under
2 subsection (a)(1) shall be adjusted by and with the
3 association. The insurance proceeds for that loss shall be
4 payable to the association, or to an insurance trustee
5 designated by the association for that purpose. The insurance
6 trustee or the association shall hold any insurance proceeds in
7 trust for unit owners and secured parties as their interests may
8 appear. The proceeds shall be disbursed first for the repair or
9 restoration of the damaged common elements and units. ~~Unit~~
10 ~~owners-and-secured-parties-are-not-entitled-to-receive-any~~
11 ~~portion-of-the-proceeds-unless~~ If there is a surplus of proceeds
12 after the common elements and units have been completely
13 repaired or restored or the common interest community is
14 terminated, the board of directors may retain the surplus for
15 use by the association or distribute the surplus among the
16 owners on an equitable basis as determined by the board.

17 (f) Unit owners may obtain insurance for personal benefit
18 in addition to insurance carried by the association.

19 (g) An insurer that has issued an insurance policy under
20 this section shall issue certificates or memoranda of insurance,
21 upon request, to any unit owner or secured party. The insurance
22 may not be canceled until 60 days after notice of the proposed
23 cancellation has been mailed to the association, each unit owner
24 and each secured party for an obligation to whom certificates of
25 insurance have been issued.

26 (h) Any portion of the common interest community which is
27 damaged or destroyed as the result of a loss covered by the
28 association's insurance shall be promptly repaired or replaced
29 by the association unless (i) the common interest community is
30 terminated and the association votes not to repair or replace
31 all or part thereof, (ii) repair or replacement would be illegal
32 under any state or local health or safety statute or ordinance,
33 or (iii) 80 percent of the unit owners, including every unit
34 owner and holder of a first mortgage on a unit or assigned
35 limited common element which will not be rebuilt, vote not to
36 rebuild. Subject to subsection (b), the cost of repair or

1 replacement of the common elements in excess of insurance
2 proceeds and reserves shall be paid as a common expense, and the
3 cost of repair of a unit in excess of insurance proceeds shall
4 be paid by the respective unit owner.

5 (i) If less than the entire common interest community is
6 repaired or replaced, (i) the insurance proceeds attributable to
7 the damaged common elements shall be used to restore the damaged
8 area to a condition compatible with the remainder of the common
9 interest community, (ii) the insurance proceeds attributable to
10 units and limited common elements which are not rebuilt shall be
11 distributed to the owners of those units, including units to
12 which the limited common elements were assigned, and the secured
13 parties of those units, as their interests may appear, and (iii)
14 the remainder of the proceeds shall be distributed to all the
15 unit owners and secured parties as their interests may appear in
16 proportion to their common element interest in the case of a
17 condominium or in proportion to their common expense liability
18 in the case of a planned community or cooperative.

19 (j) If the unit owners and holders of first mortgages vote
20 not to rebuild a unit, that unit's entire common element
21 interest, votes in the association, and common expense liability
22 are automatically reallocated upon the vote as if the unit had
23 been condemned under section 515B.1-107, and the association
24 shall promptly prepare, execute and record an amendment to the
25 declaration reflecting the reallocations. Notwithstanding the
26 provisions of this subsection, if the common interest community
27 is terminated, insurance proceeds not used for repair or
28 replacement shall be distributed in the same manner as sales
29 proceeds pursuant to section 515B.2-119.

30 (k) The provisions of this section may be varied or waived
31 in the case of a common interest community in which all units
32 are restricted to nonresidential use.

33 Sec. 28. Minnesota Statutes 2004, section 515B.3-114, is
34 amended to read:

35 515B.3-114 [RESERVES; SURPLUS FUNDS.]

36 (a) The annual budgets of the association shall provide

1 from year to year, on a cumulative basis, for adequate reserve
 2 funds to cover the replacement of those parts of the
 3 ~~common elements-and-limited-common-elements~~ interest community
 4 which the association is obligated to ~~maintain,-repair,-or~~
 5 replace. These reserve requirements shall not apply to a common
 6 interest community which is restricted to nonresidential use.

7 (b) Unless the declaration provides otherwise, any surplus
 8 funds that the association has remaining after payment of or
 9 provision for common expenses and reserves shall be (i) credited
 10 to the unit owners to reduce their future common expense
 11 assessments or (ii) credited to reserves, or any combination
 12 thereof, as determined by the board of directors.

13 Sec. 29. Minnesota Statutes 2004, section 515B.3-115, is
 14 amended to read:

15 515B.3-115 [ASSESSMENTS FOR COMMON EXPENSES.]

16 (a) The obligation of a unit owner to pay common expense
 17 assessments shall be as follows:

18 (1) If a common expense assessment has not been levied, the
 19 declarant shall pay all ~~accrued~~ operating expenses of the common
 20 interest community, and shall fund the replacement reserve
 21 component of the common expenses as required by subsection (b).

22 (2) If a common expense assessment has been levied, all
 23 unit owners including the declarant shall pay the assessments
 24 allocated to their units, subject to ~~subsection-(b)-~~ the
 25 following:

26 (i) If the declaration so provides, a declarant's
 27 liability, and the assessment lien, for the common expense
 28 assessments, exclusive of replacement reserves, on any unit
 29 owned by the declarant may be limited to 25 percent or more of
 30 any assessment, exclusive of replacement reserves, until the
 31 unit or any building located in the unit is substantially
 32 completed. Substantial completion shall be evidenced by a
 33 certificate of occupancy in any jurisdiction that issues the
 34 certificate.

35 (ii) If the declaration provides for a reduced assessment
 36 pursuant to paragraph (2)(i), the declarant shall be obligated,

1 within 60 days following the termination of the period of the
 2 declarant control, to make up any operating deficit incurred by
 3 the association during the period of declarant control.

4 ~~{3}-Notwithstanding-subsections-(a){1},-(a){2},-and-(b),-if~~
 5 ~~the-association-maintains-the-exterior-of-the-buildings~~
 6 ~~constituting-or-contained-within-the-units,-that-part-of-any~~
 7 ~~assessment-that-is-allocated-to-replacement-reserves-referred-to~~
 8 ~~in-section-515B.3-114-shall-be-fully-levied-against-a-unit,~~
 9 ~~including-any-unit-owned-by-a-declarant,-on-the-earlier-of~~
 10 ~~substantial-completion-of-the-exterior-of-(i)-the-building~~
 11 ~~containing-the-unit-or-(ii)-any-building-located-within-the-unit.~~

12 (b) Subject to subsection (a)(3), if the declaration so
 13 provides, a declarant's liability, and the assessment lien, for
 14 assessments, other than replacement reserves, on any unit owned
 15 by the declarant may be limited to 25 percent or any greater
 16 percentage of any assessment levied, until the unit or any
 17 building located in it The replacement reserve component of the
 18 common expenses shall be funded for each unit in accordance with
 19 the projected annual budget required by section 515B.4-102(23);
 20 provided, that the funding of replacement reserves with respect
 21 to a unit shall commence no later than the date that the unit or
 22 any building located within the unit boundaries is substantially
 23 completed. Substantial completion shall be evidenced by a
 24 certificate of occupancy in any jurisdiction that issues the
 25 certificate.

26 (c) After an assessment has been levied by the association,
 27 assessments shall be levied at least annually, based upon a
 28 budget approved at least annually by the association.

29 (d) Except as modified by subsections (a)(1) and (2), (e),
 30 (f), and (g), all common expenses shall be assessed against all
 31 the units in accordance with the allocations established by the
 32 declaration pursuant to section 515B.2-108.

33 (e) Unless otherwise required by the declaration:

34 (1) any common expense associated with the maintenance,
 35 repair, or replacement of a limited common element shall be
 36 assessed against the units to which that limited common element

1 is assigned, equally, or in any other proportion the declaration
2 provides;

3 (2) any common expense or portion thereof benefiting fewer
4 than all of the units may be assessed exclusively against the
5 units benefited, equally, or in any other proportion the
6 declaration provides;

7 (3) the costs of insurance may be assessed in proportion to
8 risk or coverage, and the costs of utilities may be assessed in
9 proportion to usage;

10 (4) reasonable attorneys fees and costs incurred by the
11 association in connection with (i) the collection of assessments
12 and, (ii) the enforcement of this chapter, the articles, bylaws,
13 declaration, or rules and regulations, against a unit owner, may
14 be assessed against the unit owner's unit; and

15 (5) fees, charges, late charges, fines and interest may be
16 assessed as provided in section 515B.3-116(a).

17 (f) Assessments levied under section 515B.3-116 to pay a
18 judgment against the association may be levied only against the
19 units in the common interest community at the time the judgment
20 was entered, in proportion to their common expense liabilities.

21 (g) If any damage to the common elements or another unit is
22 caused by the act or omission of any unit owner, or occupant of
23 a unit, or their invitees, the association may assess the costs
24 of repairing the damage exclusively against the unit owner's
25 unit to the extent not covered by insurance.

26 (h) Subject to any shorter period specified by the
27 declaration or bylaws, if any installment of an assessment
28 becomes more than 60 days past due, then the association may,
29 upon ten days' written notice to the unit owner, declare the
30 entire amount of the assessment immediately due and payable in
31 full.

32 (i) If common expense liabilities are reallocated for any
33 purpose authorized by this chapter, common expense assessments
34 and any installment thereof not yet due shall be recalculated in
35 accordance with the reallocated common expense liabilities.

36 (j) An assessment against fewer than all of the units must

1 be levied within three years after the event or circumstances
2 forming the basis for the assessment, or shall be barred.

3 Sec. 30. Minnesota Statutes 2004, section 515B.3-116, is
4 amended to read:

5 515B.3-116 [LIEN FOR ASSESSMENTS.]

6 (a) The association has a lien on a unit for any assessment
7 levied against that unit from the time the assessment becomes
8 due. If an assessment is payable in installments, the full
9 amount of the assessment is a lien from the time the first
10 installment thereof becomes due. Unless the declaration
11 otherwise provides, fees, charges, late charges, fines and
12 interest charges pursuant to section 515B.3-102(a)(10), (11) and
13 (12) are liens, and are enforceable as assessments, under this
14 section.

15 (b) A lien under this section is prior to all other liens
16 and encumbrances on a unit except (i) liens and encumbrances
17 recorded before the declaration and, in a cooperative, liens and
18 encumbrances which the association creates, assumes, or takes
19 subject to, (ii) any first mortgage encumbering the fee simple
20 interest in the unit, or, in a cooperative, any first security
21 interest encumbering only the unit owner's interest in the unit,
22 and (iii) liens for real estate taxes and other governmental
23 assessments or charges against the unit, and (iv) a master
24 association lien under section 515B.2-121(i). If a first
25 mortgage on a unit is foreclosed, the first mortgage was
26 recorded after June 1, 1994, and no owner redeems during the
27 owner's period of redemption provided by chapter 580, 581, or
28 582, the holder of the sheriff's certificate of sale from the
29 foreclosure of the first mortgage shall take title to the unit
30 subject to a lien in favor of the association for unpaid
31 assessments for common expenses levied pursuant to section
32 515B.3-115(a), (e)(1) to (3), (f), and (i) which became due,
33 without acceleration, during the six months immediately
34 preceding the first day following the end of the owner's period
35 of redemption. If a first security interest encumbering a unit
36 owner's interest in a cooperative unit which is personal

1 property is foreclosed, the secured party or the purchaser at
2 the sale shall take title to the unit subject to unpaid
3 assessments for common expenses levied pursuant to section
4 515B.3-115(a), (e)(1) to (3), (f), and (i) which became due,
5 without acceleration, during the six months immediately
6 preceding the first day following either the disposition date
7 pursuant to section 336.9-610 or the date on which the
8 obligation of the unit owner is discharged pursuant to section
9 336.9-622. This subsection shall not affect the priority of
10 mechanics' liens.

11 (c) Recording of the declaration constitutes record notice
12 and perfection of any lien under this section, and no further
13 recordation of any notice of or claim for the lien is required.

14 (d) Proceedings to enforce an assessment lien shall be
15 instituted within three years after the last installment of the
16 assessment becomes payable, or shall be barred.

17 (e) The unit owner of a unit at the time an assessment is
18 due shall be personally liable to the association for payment of
19 the assessment levied against the unit. If there are multiple
20 owners of the unit, they shall be jointly and severally liable.

21 (f) This section does not prohibit actions to recover sums
22 for which subsection (a) creates a lien nor prohibit an
23 association from taking a deed in lieu of foreclosure. ~~The~~
24 ~~commencement-of-an-action-to-recover-the-sums-is-not-an-election~~
25 ~~of-remedies-if-it-is-dismissed-before-commencement-of~~
26 ~~foreclosure-of-the-lien-provided-for-by-this-section.~~

27 (g) The association shall furnish to a unit owner or the
28 owner's authorized agent upon written request of the unit owner
29 or the authorized agent a statement setting forth the amount of
30 unpaid assessments currently levied against the owner's unit.
31 If the unit owner's interest is real estate, the statement shall
32 be in recordable form. The statement shall be furnished within
33 ten business days after receipt of the request and is binding on
34 the association and every unit owner.

35 (h) The association's lien may be foreclosed as provided in
36 this subsection.

1 (1) In a condominium or planned community, the
2 association's lien may be foreclosed in a like manner as a
3 mortgage containing a power of sale pursuant to chapter 580, or
4 by action pursuant to chapter 581. The association shall have a
5 power of sale to foreclose the lien pursuant to chapter 580.

6 (2) In a cooperative whose unit owners' interests are real
7 estate, the association's lien shall be foreclosed in a like
8 manner as a mortgage on real estate as provided in paragraph (1).

9 (3) In a cooperative whose unit owners' interests in the
10 units are personal property, the association's lien shall be
11 foreclosed in a like manner as a security interest under article
12 9 of chapter 336. In any disposition pursuant to section
13 336.9-610 or retention pursuant to sections 336.9-620 to
14 336.9-622, the rights of the parties shall be the same as those
15 provided by law, except (i) notice of sale, disposition, or
16 retention shall be served on the unit owner 90 days prior to
17 sale, disposition, or retention, (ii) the association shall be
18 entitled to its reasonable costs and attorney fees not exceeding
19 the amount provided by section 582.01, subdivision 1a, (iii) the
20 amount of the association's lien shall be deemed to be adequate
21 consideration for the unit subject to disposition or retention,
22 notwithstanding the value of the unit, and (iv) the notice of
23 sale, disposition, or retention shall contain the following
24 statement in capital letters with the name of the association or
25 secured party filled in:

26 "THIS IS TO INFORM YOU THAT BY THIS NOTICE (fill in name of
27 association or secured party) HAS BEGUN PROCEEDINGS UNDER
28 MINNESOTA STATUTES, CHAPTER 515B, TO FORECLOSE ON YOUR INTEREST
29 IN YOUR UNIT FOR THE REASON SPECIFIED IN THIS NOTICE. YOUR
30 INTEREST IN YOUR UNIT WILL TERMINATE 90 DAYS AFTER SERVICE OF
31 THIS NOTICE ON YOU UNLESS BEFORE THEN:

32 (a) THE PERSON AUTHORIZED BY (fill in the name of
33 association or secured party) AND DESCRIBED IN THIS NOTICE TO
34 RECEIVE PAYMENTS RECEIVES FROM YOU:

35 (1) THE AMOUNT THIS NOTICE SAYS YOU OWE; PLUS

36 (2) THE COSTS INCURRED TO SERVE THIS NOTICE ON YOU; PLUS

1 (3) \$500 TO APPLY TO ATTORNEYS FEES ACTUALLY EXPENDED OR
2 INCURRED; PLUS

3 (4) ANY ADDITIONAL AMOUNTS FOR YOUR UNIT BECOMING DUE TO
4 (fill in name of association or secured party) AFTER THE DATE OF
5 THIS NOTICE; OR

6 (b) YOU SECURE FROM A DISTRICT COURT AN ORDER THAT THE
7 FORECLOSURE OF YOUR RIGHTS TO YOUR UNIT BE SUSPENDED UNTIL YOUR
8 CLAIMS OR DEFENSES ARE FINALLY DISPOSED OF BY TRIAL, HEARING, OR
9 SETTLEMENT. YOUR ACTION MUST SPECIFICALLY STATE THOSE FACTS AND
10 GROUNDS THAT DEMONSTRATE YOUR CLAIMS OR DEFENSES.

11 IF YOU DO NOT DO ONE OR THE OTHER OF THE ABOVE THINGS
12 WITHIN THE TIME PERIOD SPECIFIED IN THIS NOTICE, YOUR OWNERSHIP
13 RIGHTS IN YOUR UNIT WILL TERMINATE AT THE END OF THE PERIOD, YOU
14 WILL LOSE ALL THE MONEY YOU HAVE PAID FOR YOUR UNIT, YOU WILL
15 LOSE YOUR RIGHT TO POSSESSION OF YOUR UNIT, YOU MAY LOSE YOUR
16 RIGHT TO ASSERT ANY CLAIMS OR DEFENSES THAT YOU MIGHT HAVE, AND
17 YOU WILL BE EVICTED. IF YOU HAVE ANY QUESTIONS ABOUT THIS
18 NOTICE, CONTACT AN ATTORNEY IMMEDIATELY."

19 (4) In any foreclosure pursuant to chapter 580, 581, or
20 582, the rights of the parties shall be the same as those
21 provided by law, except (i) the period of redemption for unit
22 owners shall be six months from the date of sale or a lesser
23 period authorized by law, (ii) in a foreclosure by advertisement
24 under chapter 580, the foreclosing party shall be entitled to
25 costs and disbursements of foreclosure and attorneys fees
26 authorized by the declaration or bylaws, notwithstanding the
27 provisions of section 582.01, subdivisions 1 and 1a, (iii) in a
28 foreclosure by action under chapter 581, the foreclosing party
29 shall be entitled to costs and disbursements of foreclosure and
30 attorneys fees as the court shall determine, and (iv) the amount
31 of the association's lien shall be deemed to be adequate
32 consideration for the unit subject to foreclosure,
33 notwithstanding the value of the unit.

34 (i) If a holder of a sheriff's certificate of sale, prior
35 to the expiration of the period of redemption, pays any past due
36 or current assessments, or any other charges lienable as

1 assessments, with respect to the unit described in the sheriff's
2 certificate, then the amount paid shall be a part of the sum
3 required to be paid to redeem under section 582.03.

4 (j) In a cooperative, ~~following-foreclosure~~ if the unit
5 owner fails to redeem before the expiration of the redemption
6 period in a foreclosure of the association's assessment lien,
7 the association may bring an action for eviction against the
8 unit owner and any persons in possession of the unit, and in
9 that case section 504B.291 shall not apply.

10 (k) An association may assign its lien rights in the same
11 manner as any other secured party.

12 Sec. 31. Minnesota Statutes 2004, section 515B.3-117, is
13 amended to read:

14 515B.3-117 [OTHER LIENS.]

15 (a) Except in a cooperative and except as otherwise
16 provided in this chapter or in a security instrument, an
17 individual unit owner may have the unit owner's unit released
18 from a lien if the unit owner pays the lienholder the portion of
19 the amount which the lien secures that is attributable to the
20 unit. Upon the receipt of payment, the lienholder shall
21 promptly deliver to the unit owner a recordable partial
22 satisfaction and release of lien releasing the unit from the
23 lien. The release shall be deemed to include a release of any
24 rights in the common elements appurtenant to the unit. The
25 portion of the amount which a lien secures that is attributable
26 to the unit shall be equal to the total amount which the lien
27 secures multiplied by a percentage calculated by dividing the
28 common expense liability attributable to the unit by the common
29 expense liability attributable to all units against which the
30 lien has been recorded, or in the case of a lien under
31 subsection (b), the units against which the lien is permitted or
32 required to be recorded. At the request of a lien claimant or
33 unit owners, the association shall provide a written statement
34 of the percentage of common expense liability attributable to
35 all units. After a unit owner's payment pursuant to this
36 section, the association may not assess the unit for any common

1 expense incurred thereafter in connection with the satisfaction
2 or defense against the lien.

3 (b) Labor performed or materials furnished for the
4 improvement of a unit shall be the basis for the recording of a
5 lien against that unit pursuant to the provisions of chapter 514
6 but shall not be the basis for the recording of a lien against
7 the common elements. Labor performed or materials furnished for
8 the improvement of common elements, for which a lien may be
9 recorded under chapter 514, if duly authorized by the
10 association, shall be deemed to be performed or furnished with
11 the express consent of each unit owner, and shall be perfected
12 by recording a lien against all the units in the common interest
13 community ~~pursuant-to-the-provisions-of-chapter-514~~, but shall
14 not be the basis for the recording of a lien against the common
15 elements except in the case of a condominium on registered land,
16 in which case a lien must be filed pursuant to section 508.351,
17 subdivision 3, or 508A.351, subdivision 3. Where a lien is
18 recorded against the units for labor performed or material
19 furnished for the improvement of common elements, the
20 association shall be deemed to be the authorized agent of the
21 unit owners for purposes of receiving the notices required under
22 sections 514.011 and 514.08, subdivision 1, clause (2).

23 (c) A security interest in a cooperative whose unit owners'
24 interests in the units are personal property shall be perfected
25 by recording a financing statement in the UCC filing section of
26 the office of the recording officer for the county in which the
27 unit is located. In any disposition by a secured party pursuant
28 to section 336.9-610 or retention pursuant to sections 336.9-620
29 to 336.9-622, the rights of the parties shall be the same as
30 those provided by law, subject to the exceptions and
31 requirements set forth in section 515B.3-116(h)(3), and except
32 that the unit owner has the right to reinstate the debt owing to
33 the secured party by paying to the secured party, prior to the
34 effective date of the disposition or retention, the amount which
35 would be required to reinstate the debt under section 580.30 if
36 the unit were wholly real estate.

1 Sec. 32. Minnesota Statutes 2004, section 515B.3-120, is
2 amended to read:

3 515B.3-120 [DECLARANT DUTIES; TURNOVER OF RECORDS.]

4 (a) During any period of declarant control pursuant to
5 section 515B.3-103(c), declarant and any of its representatives
6 who are acting as officers or directors of the association shall:

7 (1) cause the association to be operated and administered
8 in accordance with its articles of incorporation and bylaws, the
9 declaration and applicable law;

10 (2) be subject to all fiduciary obligations and obligations
11 of good faith applicable to any persons serving a corporation in
12 that capacity;

13 (3) cause the association's funds to be maintained in a
14 separate bank account or accounts solely in the association's
15 name, from and after the date of creation of the association;
16 and

17 (4) cause the association to maintain complete and accurate
18 records in compliance with section 515B.3-118.

19 (b) At such time as any period of declarant control
20 terminates, declarant shall cause to be delivered to the board
21 elected by the unit owners exclusive control of all funds of the
22 association, all contracts and agreements to which are binding
23 on the association was-or-is-a-party, all corporate records of
24 the association including financial records, copies of all CIC
25 plats and supplementary CIC plats, personal property owned or
26 represented to be owned by the association, assignments of all
27 declarant's rights and interests under the warranties if not in
28 the name of the association, and, to the extent they are in the
29 control or possession of the declarant, copies of all plans and
30 specifications in its control or possession relating to the
31 common-interest-community buildings and related
32 improvements which are part of the common elements, and
33 operating manuals and warranty materials relating to any
34 equipment or personal property utilized in the operation of the
35 common interest community. The declarant's obligation to turn
36 over the foregoing items shall continue to include additional

1 new or changed items in its possession or control.

2 (c) A ~~declarant-in-control~~ person entitled to appoint the
 3 directors of a master association pursuant to section
 4 515B.2-121(c)(3), and the master association's officers and
 5 directors, shall be subject to the same duties and obligations
 6 with respect to the master association as are described in
 7 subsections (a), and (b) and-(c), to the extent
 8 applicable. ~~The period of declarant control of the master~~
 9 ~~association shall terminate as provided in section~~
 10 ~~515B.2-121(f)~~. A master association may not be used to
 11 circumvent or avoid any obligation or restriction imposed on a
 12 declarant or its affiliates by this chapter.

13 Sec. 33. Minnesota Statutes 2004, section 515B.4-101, is
 14 amended to read:

15 515B.4-101 [APPLICABILITY; DELIVERY OF DISCLOSURE
 16 STATEMENT.]

17 (a) Sections 515B.4-101 through 515B.4-118 apply to all
 18 units subject to this chapter, except as provided in subsection
 19 (c) or as modified or waived by written agreement of purchasers
 20 of a unit which is restricted to nonresidential use.

21 (b) Subject to subsections (a) and (c), a declarant who
 22 offers a unit to a purchaser shall deliver to the purchaser a
 23 current disclosure statement which complies with the
 24 requirements of section 515B.4-102. The disclosure statement
 25 shall include any material amendments to the disclosure
 26 statement made prior to the conveyance of the unit to the
 27 purchaser. The declarant shall be liable to the purchaser to
 28 whom it delivered the disclosure statement for any false or
 29 misleading statement set forth therein or for any omission of a
 30 material fact therefrom.

31 (c) Neither a disclosure statement nor a resale disclosure
 32 certificate need be prepared or delivered in the case of:

- 33 (1) a gratuitous transfer;
 34 (2) a transfer pursuant to a court order;
 35 (3) a transfer to a government or governmental agency;
 36 (4) a transfer to a secured party by foreclosure or deed in

1 lieu of foreclosure;

2 (5) an option to purchase a unit, until exercised;

3 (6) a transfer to a person who "controls" or is "controlled
4 by," the grantor as those terms are defined with respect to a
5 declarant under section 515B.1-103(2);

6 (7) a transfer by inheritance;

7 (8) a transfer of special declarant rights under section
8 515B.3-104; or

9 (9) a transfer in connection with a change of form of
10 common interest community under section 515B.2-123.

11 (d) A purchase agreement for a unit shall contain the
12 following notice: "The following notice is required by
13 Minnesota Statutes. The purchaser is entitled to receive a
14 disclosure statement or resale disclosure certificate, as
15 applicable. The disclosure statement or resale disclosure
16 certificate contains important information regarding the common
17 interest community and the purchaser's cancellation rights."

18 (e) A purchase agreement for the sale, to the initial
19 occupant, of a platted lot or other parcel of real estate (i)
20 which is subject to a master declaration, (ii) which is intended
21 for residential occupancy, and (iii) which does not and is not
22 intended to constitute a unit, shall contain the following
23 notice: "The following notice is required by Minnesota
24 Statutes: The real estate to be conveyed under this agreement
25 is or will be subject to a master association as defined in
26 Minnesota Statutes, chapter 515B. The master association is
27 obligated to provide to the purchaser, pursuant to Minnesota
28 Statutes, section 515B.4-102(c), upon the purchaser's request, a
29 statement containing the information required by Minnesota
30 Statutes, section 515B.4-102(a)(20), with respect to the master
31 association, prior to the time that the purchaser signs a
32 purchase agreement for the real estate. The statement contains
33 important information regarding the master association and the
34 purchaser's obligations thereunder." A claim by a purchaser
35 based upon a failure to include the foregoing notice in a
36 purchase agreement:

1 (1) shall be limited to legal, and not equitable, remedies;
2 (2) shall be barred unless it is commenced within the time
3 period specified in section 515B.4-115(a); or
4 (3) may be waived by a separate written document signed by
5 the seller and purchaser.

6 Sec. 34. Minnesota Statutes 2004, section 515B.4-102, is
7 amended to read:

8 515B.4-102 [DISCLOSURE STATEMENT; GENERAL PROVISIONS.]

9 (a) A disclosure statement shall fully and accurately
10 disclose:

11 (1) the name and, if available, the number of the common
12 interest community;

13 (2) the name and principal address of the declarant;

14 (3) the number of units which the declarant has the right
15 to include in the common interest community and a statement that
16 the common interest community is either a condominium,
17 cooperative, or planned community;

18 (4) a general description of the common interest community,
19 including, at a minimum, (i) the number of buildings, (ii) the
20 number of dwellings per building, (iii) the type of
21 construction, (iv) whether the common interest community
22 involves new construction or rehabilitation, (v) whether any
23 building was wholly or partially occupied, for any purpose,
24 before it was added to the common interest community and the
25 nature of the occupancy, and (vi) a general description of any
26 roads, trails, or utilities that are located on the common
27 elements and that the association or a master association will
28 be required to maintain;

29 (5) declarant's schedule of commencement and completion of
30 construction of any buildings and other improvements that the
31 declarant is obligated to build pursuant to section 515B.4-117;

32 (6) any expenses or services, not reflected in the budget,
33 that the declarant pays or provides, which may become a common
34 expense; the projected common expense attributable to each of
35 those expenses or services; and an explanation of declarant's
36 limited assessment liability under section 515B.3-115,

1 subsection (b);

2 (7) any initial or special fee due from the purchaser to
3 the declarant or the association at closing, together with a
4 description of the purpose and method of calculating the fee;

5 (8) identification of any liens, defects, or encumbrances
6 which will continue to affect the title to a unit or to any real
7 property owned by the association after the contemplated
8 conveyance;

9 (9) a description of any financing offered or arranged by
10 the declarant;

11 (10) a statement as to whether application has been made
12 for any project approvals for the common interest community from
13 the Federal National Mortgage Association (FNMA), Federal Home
14 Loan Mortgage Corporation (FHLMC), Department of Housing and
15 Urban Development (HUD) or Department of Veterans Affairs (VA),
16 and which, if any, such final approvals have been received;

17 (11) the terms of any warranties provided by the declarant,
18 including copies of ~~chapter-327A,~~ and sections 515B.4-112
19 through 515B.4-115, and any other applicable statutory
20 warranties, and a statement of any limitations on the
21 enforcement of the applicable warranties or on damages;

22 (12) a statement that: (i) within ten days after the
23 receipt of a disclosure statement, a purchaser may cancel any
24 contract for the purchase of a unit from a declarant; provided,
25 that the right to cancel terminates upon the purchaser's
26 voluntary acceptance of a conveyance of the unit from the
27 declarant or by the purchaser agreeing to modify or waive the
28 right to cancel in the manner provided by section 515B.4-106,
29 paragraph (a); (ii) if a purchaser receives a disclosure
30 statement more than ten days before signing a purchase
31 agreement, the purchaser cannot cancel the purchase agreement;
32 and (iii) if a declarant obligated to deliver a disclosure
33 statement fails to deliver a disclosure statement which
34 substantially complies with this chapter to a purchaser to whom
35 a unit is conveyed, the declarant shall be liable to the
36 purchaser as provided in section 515B.4-106(d);

1 (13) a statement disclosing to the extent of the
2 declarant's or an affiliate of a declarant's actual knowledge,
3 after reasonable inquiry, any unsatisfied judgments or lawsuits
4 to which the association is a party, and the status of those
5 lawsuits which are material to the common interest community or
6 the unit being purchased;

7 (14) a statement (i) describing the conditions under which
8 earnest money will be held in and disbursed from the escrow
9 account, as set forth in section 515B.4-109, (ii) that the
10 earnest money will be returned to the purchaser if the purchaser
11 cancels the contract pursuant to section 515B.4-106, and (iii)
12 setting forth the name and address of the escrow agent;

13 (15) a detailed description of the insurance coverage
14 provided by the association for the benefit of unit owners,
15 including a statement as to which, if any, of the items referred
16 to in section 515B.3-113, subsection (b), are insured by the
17 association;

18 (16) any current or expected fees or charges, other than
19 assessments for common expenses, to be paid by unit owners for
20 the use of the common elements or any other improvements or
21 facilities;

22 (17) the financial arrangements, including any
23 contingencies, which have been made to provide for completion of
24 all improvements that the declarant is obligated to build
25 pursuant to section 515B.4-118, or a statement that no such
26 arrangements have been made;

27 (18) in a cooperative: (i) whether the unit owners will be
28 entitled for federal and state tax purposes, to deduct payments
29 made by the association for real estate taxes and interest paid
30 to the holder of a security interest encumbering the
31 cooperative; and (ii) a statement as to the effect on the unit
32 owners if the association fails to pay real estate taxes or
33 payments due the holder of a security interest encumbering the
34 cooperative; and (iii) the principal amount and a general
35 description of the terms of any blanket mortgage, contract for
36 deed, or other blanket security instrument encumbering the

1 cooperative property;

2 (19) a statement: (i) that real estate taxes for the unit
3 or any real property owned by the association are not delinquent
4 or, if there are delinquent real estate taxes, describing the
5 property for which the taxes are delinquent, stating the amount
6 of the delinquent taxes, interest and penalties, and stating the
7 years for which taxes are delinquent, and (ii) setting forth the
8 amount of real estate taxes, including the amount of any special
9 assessment certified for payment with the real estate taxes, due
10 and payable with respect to the unit in the year in which the
11 disclosure statement is given, if real estate taxes have been
12 separately assessed against the unit;

13 (20) if the association or the purchaser of the unit will
14 be a member of a master association, a statement to that effect,
15 and all of the following information with respect to the master
16 association: (i) a copy of the master declaration, ~~if-any~~
17 ~~{other-than-any-CIE-plat}~~, the articles of incorporation,
18 bylaws, and rules and regulations for the master association,
19 together with any amendments thereto; (ii) the name, address and
20 general description of the master association, including a
21 general description of any other association, unit owners, or
22 other persons which are or may become members; (iii) a
23 description of any nonresidential use permitted on any property
24 subject to the master association; (iv) a statement as to the
25 estimated maximum number of associations, unit owners or other
26 persons which may become members of the master association, and
27 the degree and period of control of the master association by a
28 declarant or other person; (v) a description of any facilities
29 intended for the benefit of the members of the master
30 association and not located on property owned or controlled by a
31 member or the master association; (vi) the financial
32 arrangements, including any contingencies, which have been made
33 to provide for completion of the facilities referred to in
34 subsection (v), or a statement that no arrangements have been
35 made; (vii) any current balance sheet of the master association
36 and a projected or current annual budget, as applicable, which

1 budget shall include with respect to the master association
2 those items in paragraph (23), clauses (i) through ~~(iv)~~ (iii),
3 and the projected monthly common expense assessment for each
4 type of unit, lot, or other parcel of real estate which is or is
5 planned to be subject to assessment; (viii) a description of any
6 expenses or services not reflected in the budget, paid for or
7 provided by a declarant or a person executing the master
8 declaration, which may become an expense of the master
9 association in the future; (ix) a description of any powers
10 delegated to and accepted by the master association pursuant to
11 section 515B.2-121(f)(2); (x) identification of any liens,
12 defects or encumbrances that will continue to affect title to
13 property owned or operated by the master association for the
14 benefit of its members; (xi) the terms of any warranties
15 provided by any person for construction of facilities in which
16 the members of the master association have or may have an
17 interest, and any known defects in the facilities which would
18 violate the standards described in section 515B.4-112(b); (xii)
19 a statement disclosing, ~~to the extent of the declarant's~~
20 ~~knowledge~~, after inquiry of the master association, any
21 unsatisfied judgments or lawsuits to which the master
22 association is a party, and the status of those lawsuits which
23 are material to the master association; (xiii) a description of
24 any insurance coverage provided for the benefit of its members
25 by the master association; and (xiv) any current or expected
26 fees or charges, other than assessments by the master
27 association, to be paid by members of the master association for
28 the use of any facilities intended for the benefit of the
29 members;

30 (21) a statement as to whether the unit will be
31 substantially completed at the time of conveyance to a
32 purchaser, and if not substantially completed, who is
33 responsible to complete and pay for the construction of the
34 unit;

35 (22) a copy of the declaration and any amendments thereto,
36 (exclusive of the CIC plat), any other recorded covenants,

1 conditions restrictions, and reservations affecting the common
2 interest community; the articles of incorporation, bylaws and
3 any rules or regulations of the association; any agreement
4 excluding or modifying any implied warranties; any agreement
5 reducing the statute of limitations for the enforcement of
6 warranties; any contracts or leases to be signed by purchaser at
7 closing; and a brief narrative description of any (i) contracts
8 or leases that are or may be subject to cancellation by the
9 association under section 515B.3-105 and (ii) any material
10 agreements entered into between the declarant and a governmental
11 entity that affect the common interest community; and
12 (23) any-current a balance sheet for the association,
13 current within 90 days; a projected annual budget for the
14 association for-the-year-in-which-the-first-unit-is-conveyed-to
15 a-purchaser,-and-thereafter-the-current-annual-budget-of-the
16 association; and a statement identifying the party responsible
17 for the preparation of the budget. The budget shall assume that
18 all units intended to be included in the common interest
19 community, based upon the declarant's good faith estimate, have
20 been subjected to the declaration; provided, that additional
21 budget portrayals based upon a lesser number of units are
22 permitted. The budget shall include, without limitation: (i) a
23 statement of the amount included in the budget as a reserve for
24 maintenance,-repair-and replacement; (ii) a statement of any
25 other reserves; (iii) the projected common expense for each
26 category of expenditures for the association; and (iv) the
27 projected monthly common expense assessment for each type of
28 unit; and (v) a footnote or other reference to those components
29 of the common interest community the maintenance, repair, or
30 replacement of which the budget assumes will be funded by
31 assessments under section 515B.3-115(e) rather than by
32 assessments included in the association's annual budget, and a
33 statement referencing section 515B.3-115(e)(1) or (2) as the
34 source of funding. If, based upon the association's then
35 current budget, the monthly common expense assessment for the
36 unit at the time of conveyance to the purchaser is anticipated

1 to exceed the monthly assessment stated in the budget, a
 2 statement to such effect shall be included.

3 (b) A declarant shall promptly amend the disclosure
 4 statement to reflect any material change in the information
 5 required by this chapter.

6 (c) The master association, within ten days after a request
 7 by a declarant, ~~or any~~ a holder of declarant rights, or a
 8 purchaser referred to in section 515B.4-101(e), or the
 9 authorized representative of any of them, shall furnish the
 10 information required to be provided by subsection (a)(20). A
 11 declarant or other person who provides information pursuant to
 12 subsection (a)(20) is not liable to the purchaser for any
 13 erroneous information if the declarant or other person: (i) is
 14 not an affiliate of or related in any way to a person authorized
 15 to appoint the master association board pursuant to section
 16 515B.2-121(c)(3), and (ii) has no actual knowledge that the
 17 information is incorrect.

18 Sec. 35. Minnesota Statutes 2004, section 515B.4-105, is
 19 amended to read:

20 515B.4-105 [COMMON INTEREST COMMUNITY WITH BUILDING ONCE
 21 OCCUPIED.]

22 The disclosure statement of a common interest community
 23 containing any building that was at any time before the creation
 24 of the common interest community wholly or partially occupied,
 25 for any purpose, by persons other than purchasers or persons who
 26 occupied with the consent of purchasers, shall contain, in
 27 addition to the information required by sections 515B.4-102,
 28 515B.4-103 and 515B.4-104:

29 (1) a professional opinion prepared by a registered
 30 professional architect or engineer, licensed in this state,
 31 describing the ~~present~~ current condition of all structural
 32 components, and mechanical and electrical installations,
 33 material to the use and enjoyment of the building, to the extent
 34 reasonably ascertainable without disturbing the improvements or
 35 dismantling the equipment, which will be in place or be
 36 operational at the time of conveyance of the first unit to a

1 person other than a declarant;

2 (2) a statement by the declarant of the expected useful
3 life of each item reported on in paragraph (1) or a statement
4 that no representations are made in that regard; and

5 (3) a list of any outstanding notices of uncured violations
6 of building code or other municipal regulations, together with
7 the estimated cost of curing those violations.

8 Sec. 36. Minnesota Statutes 2004, section 515B.4-106, is
9 amended to read:

10 515B.4-106 [PURCHASER'S RIGHT TO CANCEL.]

11 (a) A person required to deliver a disclosure statement
12 pursuant to section 515B.4-101(b) shall provide at least one of
13 the purchasers of the unit with a copy of the disclosure
14 statement and all amendments thereto before conveyance of the
15 unit. If a purchaser is not given a disclosure statement more
16 than ~~five~~ ten days before execution of the purchase agreement,
17 the purchaser may, before conveyance, cancel the purchase
18 agreement within ~~five~~ ten days after first receiving the
19 disclosure statement. If a purchaser is given the disclosure
20 statement more than ~~five~~ ten days before execution of the
21 purchase agreement, the purchaser may not cancel the purchase
22 agreement pursuant to this section. ~~Except-as-expressly~~
23 ~~provided-in-this-chapter,~~ The five-day ten-day rescission period
24 ~~cannot-be-waived~~ may be modified or waived, in writing, by
25 agreement of the purchaser of a unit only after the purchaser
26 has received and had an opportunity to review the disclosure
27 statement. The person required to deliver a disclosure
28 statement may not condition the sale of the unit on the
29 purchaser agreeing to modify or waive the purchaser's ten-day
30 right of rescission, may not contractually obligate the
31 purchaser to modify or waive the purchaser's ten-day right of
32 rescission, and may not include a modification or waiver of the
33 ten-day right of rescission in any purchase agreement for the
34 unit. To be effective, a modification or waiver of a
35 purchaser's ten-day right of rescission must be evidenced by an
36 instrument separate from the purchase agreement signed by the

1 purchaser more than three days after the purchaser signs the
2 purchase agreement.

3 (b) If an amendment to the disclosure statement materially
4 and adversely affects a purchaser, then the purchaser shall have
5 ~~five~~ ten days after delivery of the amendment to cancel the
6 purchase agreement in accordance with this section. The ten-day
7 rescission period may be modified or waived, in writing, by
8 agreement of the purchaser of a unit only after the purchaser
9 has received and had an opportunity to review the disclosure
10 statement. To be effective, a modification or waiver of a
11 purchaser's ten-day right of rescission under this section must
12 be evidenced by a written instrument separate from the purchase
13 agreement signed by the purchaser more than three days after the
14 purchaser receives the amendment.

15 (c) If a purchaser elects to cancel a purchase agreement
16 pursuant to this section, the purchaser may do so by giving
17 notice thereof pursuant to section 515B.1-115. Cancellation is
18 without penalty, and all payments made by the purchaser before
19 cancellation shall be refunded promptly. Notwithstanding
20 anything in this section to the contrary, the purchaser's
21 cancellation rights under this section terminate upon the
22 purchaser's acceptance of a conveyance of the unit.

23 (d) If a declarant obligated to deliver a disclosure
24 statement fails to deliver to the purchaser a disclosure
25 statement which substantially complies with this chapter, the
26 declarant shall be liable to the purchaser in the amount of
27 \$1,000, in addition to any damages or other amounts recoverable
28 under this chapter or otherwise. Any action brought under this
29 subsection shall be commenced within the time period specified
30 in section 515B.4-115, subsection (a).

31 Sec. 37. Minnesota Statutes 2004, section 515B.4-107, is
32 amended to read:

33 515B.4-107 [RESALE OF UNITS.]

34 (a) In the event of a resale of a unit by a unit owner
35 other than a declarant, unless exempt under section
36 515B.4-101(c), the unit owner shall furnish to a purchaser,

1 before execution of any purchase agreement for a unit or
2 otherwise before conveyance, the following documents relating to
3 the association or to the master association, if applicable:

4 (1) copies of the declaration (other than any CIC plat),
5 the articles of incorporation and bylaws, any rules and
6 regulations, and any amendments ~~thereto~~ or supplemental
7 declarations;

8 (2) the organizational and operating documents relating to
9 the master association, if any; and

10 (3) a resale disclosure certificate from the association
11 dated not more than 90 days prior to the date of the purchase
12 agreement or the date of conveyance, whichever is earlier,
13 containing the information set forth in subsection (b).

14 (b) The resale disclosure certificate must be in
15 substantially the following form:

16 COMMON INTEREST COMMUNITY

17 RESALE DISCLOSURE CERTIFICATE

18 Name of Common Interest Community:.....
19 Name of Association:.....
20 Address of Association:.....
21 Unit Number(s) (include principal unit and any garage, storage,
22 or other auxiliary unit(s)):.....

23 The following information is furnished by the association
24 named above according to Minnesota Statutes, section 515B.4-107.

25 1. There is no right of first refusal or other restraint
26 on the free alienability of the above unit(s) contained in the
27 declaration, bylaws, rules and regulations, or any amendment to
28 them, except as follows:.....

29
30
31

32 2. The following periodic installments of common expense
33 assessments and special assessments are payable with respect to
34 the above unit(s):

35 a. Annual assessment

36 installments: \$..... Due:

1 b. Special assessment
2 installments: \$..... Due:

3 c. Unpaid assessments, fines, or other charges:

- 4 (1) Annual \$.....
- 5 (2) Special \$.....
- 6 (3) Fines \$.....
- 7 (4) Other Charges \$.....

8 d. The association has/has not (strike one) approved
9 a plan for levying certain common expense
10 assessments against fewer than all the units
11 according to Minnesota Statutes, section 515B.3-115,
12 subsection (e). If a plan is approved, a description
13 of the plan is attached to this certificate.

14 3. In addition to the amounts due under paragraph 2, the
15 following additional fees or charges other than assessments are
16 payable by unit owners (include late payment charges, user fees,
17 etc.):.....
18
19

20 4. There are no extraordinary expenditures approved by the
21 association, and not yet assessed, for the current and two
22 succeeding fiscal years, except as follows:.....
23
24

25 5. The association has reserved the following amounts for
26 maintenance, repair, or replacement:.....
27
28

29 The following portions of these reserves are designated for the
30 following specified projects or uses:.....
31

32 6. The following documents are furnished with this
33 certificate according to statute:

- 34 a. The most recent regularly prepared balance sheet and
35 income and expense statement of the association.
- 36 b. The current budget of the association.

1 7. There are no unsatisfied judgments against the
2 association, except as follows (identify creditor and amount):..

3
4

5 8. There are no pending lawsuits to which the association
6 is a party, except as follows (identify and summarize status):..

7
8
9

10 9. Description of insurance coverages:

11 a. The association provides the following insurance
12 coverage for the benefit of unit owners: (Reference may be made
13 to applicable sections of the declaration or bylaws; however,
14 any additional coverages should be described in this space)

15
16
17

18 b. The following described fixtures, decorating items, or
19 construction items within the unit referred to in Minnesota
20 Statutes, section 515B.3-113, subsection (b), are insured by the
21 association (check as applicable):

- 22 ... ___ Ceiling or wall finishing materials
- 23 ... ___ Floor coverings
- 24 ... ___ Cabinetry
- 25 ... ___ Finished millwork
- 26 ... ___ Electrical or plumbing fixtures serving a single unit
- 27 ... ___ Built-in appliances
- 28 ... ___ Improvements and betterments as originally constructed
- 29 ... ___ Additional improvements and betterments installed by
- 30 unit owners

31 10. The board of directors of the association has not
32 notified the unit owner (i) that any alterations or improvements
33 to the unit or to the limited common elements assigned to it
34 violate any provision of the declaration; or (ii) that the unit
35 is in violation of any governmental statute, ordinance, code, or
36 regulation, except as follows:.....

1
2 11. The remaining term of any leasehold estate affecting
3 the common interest community and the premises governing any
4 extension or renewal of it are as follows:.....

5
6
7 12. In addition to the above, the following matters
8 affecting the unit or the unit owner's obligations with respect
9 to the unit are deemed material.

10
11 I hereby certify that the foregoing information and
12 statements are true and correct as of

13 (Date)

14 By:
15 Title:
16 (Association representative)
17 Address:.....
18 Phone Number:.....

19 RECEIPT

20 In addition to the foregoing information furnished by the
21 association, the unit owner is obligated to furnish to the
22 purchaser before execution of any purchase agreement for a unit
23 or otherwise before conveyance, copies of the following
24 documents relating to the association or to the master
25 association (as applicable): the declaration (other than any
26 common interest community plat), articles of incorporation,
27 bylaws, rules and regulations (if any), and any amendments to
28 these documents. Receipt of the foregoing documents, and the
29 resale disclosure certificate, is acknowledged by the
30 undersigned buyer(s).

31 Dated:
32 (Buyer)
33
34 (Buyer)

35 (c) If the association is subject to a master association
36 to which has been delegated the association's powers under

1 section 515B.3-102(a)(2), then the financial information
 2 required to be disclosed under subsection (b) may be disclosed
 3 on a consolidated basis.

4 (d) The association, within ten days after a request by a
 5 unit owner, or the unit owner's authorized representative, shall
 6 furnish the certificate required in subsection (a). The
 7 association may charge a reasonable fee for furnishing the
 8 certificate and any association documents related thereto. A
 9 unit owner providing a certificate pursuant to subsection (a) is
 10 not liable to the purchaser for any erroneous information
 11 provided by the association and included in the certificate.

12 (e) A purchaser is not liable for any unpaid common expense
 13 assessments, including special assessments, if any, not set
 14 forth in the certificate required in subsection (a). A
 15 purchaser is not liable for the amount by which the annual or
 16 special assessments exceed the amount of annual or special
 17 assessments stated in the certificate for assessments payable in
 18 the year in which the certificate was given, except to the
 19 extent of any increases subsequently approved in accordance with
 20 the declaration or bylaws. A unit owner is not liable to a
 21 purchaser for the failure of the association to provide the
 22 certificate, or a delay by the association in providing the
 23 certificate in a timely manner.

24 Sec. 38. Minnesota Statutes 2004, section 515B.4-108, is
 25 amended to read:

26 515B.4-108 [PURCHASER'S RIGHT TO CANCEL RESALE.]

27 (a) Unless a purchaser is given the information required to
 28 be delivered by section 515B.4-107, by a delivery method
 29 described in that section, more than five ten days prior to the
 30 execution of the purchase agreement for the unit the purchaser
 31 may, prior to the conveyance, cancel the purchase agreement
 32 within five ten days after receiving the information. ~~Except-as~~
 33 ~~expressly-provided-in-this-chapter,-the-five-day-rescission~~
 34 ~~period-cannot-be-waived-~~ The ten-day rescission period may be
 35 modified or waived, in writing, by agreement of the purchaser of
 36 a unit only after the purchaser has received and had an

1 opportunity to review the information required to be delivered
2 by section 515B.4-107. The person required to deliver the
3 information required to be delivered by section 515B.4-107 may
4 not condition the sale of the unit on the purchaser agreeing to
5 modify or waive the purchaser's ten-day right of rescission, may
6 not contractually obligate the purchaser to modify or waive the
7 purchaser's ten-day right of rescission, and may not include a
8 modification or waiver of the ten-day right of rescission in any
9 purchase agreement for the unit. To be effective, a
10 modification or waiver of a purchaser's ten-day right of
11 rescission must be evidenced by an instrument separate from the
12 purchase agreement signed by the purchaser more than three days
13 after the purchaser signs the purchase agreement.

14 (b) A purchaser who elects to cancel a purchase agreement
15 pursuant to subsection (a), may do so by hand delivering notice
16 thereof or mailing notice by postage prepaid United States mail
17 to the seller or the agent. Cancellation is without penalty and
18 all payments made by the purchaser shall be refunded promptly.

19 Sec. 39. Minnesota Statutes 2004, section 515B.4-109, is
20 amended to read:

21 515B.4-109 [ESCROW DEPOSITS.]

22 All earnest money paid or deposits made in connection with
23 the purchase or reservation of units from or with a declarant
24 shall be deposited in an escrow account controlled jointly by
25 the declarant and the purchaser, or controlled by a licensed
26 title insurance company or agent thereof, an attorney
27 representing either the declarant or the purchaser, a licensed
28 real estate broker or, an independent bonded escrow company, or
29 a governmental agency or instrumentality. The escrow account
30 shall be in an institution whose deposits are insured by a
31 governmental agency or instrumentality. The money or deposits
32 shall be held in the escrow account until (i) delivered to the
33 declarant at closing; (ii) delivered to the declarant because of
34 the purchaser's default under a reservation agreement or a
35 contract to purchase the unit; (iii) delivered to the purchaser
36 pursuant to the provisions of section 515B.4-106 or the

1 provisions of a reservation agreement or a contract to purchase;
2 or (iv) delivered for payment of construction costs pursuant to
3 a written agreement between the declarant and the purchaser.

4 Sec. 40. Minnesota Statutes 2004, section 515B.4-111, is
5 amended to read:

6 515B.4-111 [CONVERSION PROPERTY.]

7 (a) A unit owner of a unit occupied for residential use in
8 a common interest community containing conversion property shall
9 not, for a period of one year following the recording of the
10 declaration creating the common interest community, require any
11 occupant of the unit to vacate the unit unless the unit owner
12 gives notice to the occupant in the manner described in this
13 section. The notice shall be given no later than 120 days
14 before the occupant is required to vacate the unit. The notice
15 shall be sufficient as to all occupants of a unit if it is hand
16 delivered or mailed to the unit to be vacated, addressed to the
17 occupants thereof. If the holder of the lessee's interest in
18 the unit has given the unit owner an address different than that
19 of the unit, then the notice shall also be given to the holder
20 of the lessee's interest at the designated address. The notice
21 shall ~~satisfy~~ comply with the following requirements:

22 (1) The notice shall set forth generally the rights
23 conferred by this section.

24 (2) The notice shall have attached to the notice intended
25 for the holder of the lessee's interest a form of purchase
26 agreement setting forth the terms of sale contemplated by
27 subsection (d) and a statement of any significant restrictions
28 on the use and occupancy of the unit to be imposed by the
29 declarant.

30 (3) The notice shall state that the occupants of the
31 residential unit may demand to be given 60 additional days
32 before being required to vacate, if any of them, or any person
33 residing with them, is (i) 62 years of age or older, (ii) a
34 person with a disability as defined in section 268A.01, or (iii)
35 a minor child on the date the notice is given. This demand must
36 be in writing, contain reasonable proof of qualification, and be

1 given to the declarant within 30 days after the notice of
2 conversion is delivered or mailed.

3 (4) The notice shall be contained in an envelope upon which
4 the following shall be boldly printed: "Notice of Conversion."

5 (b) Notwithstanding subsection (a), an occupant may be
6 required to vacate a unit upon less than 120 days' notice by
7 reason of nonpayment of rent, utilities or other monetary
8 obligations, violations of law, waste, or conduct that disturbs
9 other occupants' peaceful enjoyment of the premises. The terms
10 of the tenancy may not be altered during the notice period,
11 except that the holder of the lessee's interest or other party
12 in possession may vacate and terminate the tenancy upon one
13 month's written notice to the declarant. Nothing in this
14 section prevents the unit owner and any occupant from agreeing
15 to a right of occupancy on a month-to-month basis beyond the
16 120-day notice period, or to an earlier termination of the right
17 of occupancy.

18 (c) No repair work or remodeling may be commenced or
19 undertaken in the occupied units or common areas of the building
20 during the notice period, unless reasonable precautions are
21 taken to ensure the safety and security of the occupants.

22 (d) For 60 days after delivery or mailing of the notice
23 described in subsection (a), the holder of the lessee's interest
24 in the unit on the date the notice is mailed or delivered shall
25 have an option to purchase that unit on the terms set forth in
26 the purchase agreement attached to the notice. The purchase
27 agreement shall contain no terms or provisions which violate any
28 state or federal law relating to discrimination in housing. If
29 the holder of the lessee's interest fails to purchase the unit
30 during that 60-day period, the unit owner may not offer to
31 dispose of an interest in that unit during the following 180
32 days at a price or on terms more favorable to the offeree than
33 the price or terms offered to the holder. This subsection does
34 not apply to any unit in a conversion building if that unit will
35 be restricted exclusively to nonresidential use or if the
36 boundaries of the converted unit do not substantially conform to

1 the boundaries of the residential unit before conversion.

2 (e) If a unit owner, in violation of subsection (b),
3 conveys a unit to a purchaser for value who has no knowledge of
4 the violation, the recording of the deed conveying the unit or,
5 in a cooperative, the conveyance of the right to possession of
6 the unit, extinguishes any right a holder of a lessee's interest
7 who is not in possession of the unit may have under subsection
8 (d) to purchase that unit, but the conveyance does not affect
9 the right of the holder to recover damages from the unit owner
10 for a violation of subsection (d).

11 (f) If a notice of conversion specifies a date by which a
12 unit or proposed unit must be vacated or otherwise complies with
13 the provisions of chapter 504B, the notice also constitutes a
14 notice to vacate specified by that statute.

15 (g) Nothing in this section permits a unit owner to
16 terminate a lease in violation of its terms.

17 (h) Failure to give notice as required by this section is a
18 defense to an action for possession until a notice complying
19 with this section is given and the applicable notice period
20 terminates.

21 Sec. 41. Minnesota Statutes 2004, section 515B.4-115, is
22 amended to read:

23 515B.4-115 [STATUTE OF LIMITATIONS FOR WARRANTIES.]

24 (a) A judicial proceeding for breach of an obligation
25 arising under section 515B.4-101(e) or 515B.4-106(d), shall be
26 commenced within six months after the conveyance of the unit or
27 other parcel of real estate.

28 (b) A judicial proceeding for breach of an obligation
29 arising under section 515B.4-112 or 515B.4-113 shall be
30 commenced within six years after the cause of action accrues,
31 but the parties may agree to reduce the period of limitation to
32 not less than two years. An agreement reducing the period of
33 limitation shall be binding on the purchaser's successor assigns.

34 With respect to a unit that may be occupied for residential use,
35 an agreement to reduce the period of limitation must be
36 evidenced by an instrument separate from the purchase agreement

1 signed by the purchaser.

2 (c) Subject to subsection (d), a cause of action under
3 section 515B.4-112 or 515B.4-113, regardless of the purchasers
4 lack of knowledge of the breach, accrues:

5 (1) as to a unit, at the earlier of the time of conveyance
6 of the unit by the declarant to a bona fide purchaser of the
7 unit other than an affiliate of a declarant, or the time the
8 purchaser enters into possession of the unit; and

9 (2) as to each common element, the latest of (i) the time
10 the common element is completed, (ii) the time the first unit in
11 the common interest community is conveyed to a bona fide
12 purchaser, or if the common element is located on property that
13 is additional real estate at the time the first unit therein is
14 conveyed to a bona fide purchaser, or (iii) the termination of
15 the period of declarant control.

16 (d) If a warranty explicitly extends to future performance
17 or duration of any improvement or component of the common
18 interest community, the cause of action accrues at the time the
19 breach is discovered or at the end of the period for which the
20 warranty explicitly extends, whichever is earlier."

21 Amend the title as follows:

22 Page 1, line 13, after "515B.4-107;" insert "515B.4-108;"

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S.F. No. 215 - Department of Human Rights Technical Changes

Author: Senator Mee Moua

Prepared by: Harry Walsh, Senate Counsel (651/296-6200)

Date: January 18, 2005

S.F. No. 215 contains numerous changes to the law governing the Department of Human Rights.

Article 1, sections 1 and 2, make style changes in definitions.

Article 1, section 3, makes a verified complaint necessary for a person to be a charging party.

Article 1, section 4, changes the procedural position of the Commissioner as "complainant."

Article 1, section 5, extends the definition of "educational institution" to religious educational institutions.

Article 1, section 6, enlarges the definition of "investigative data" to include various electronic data.

Article 1, section 7, adds state councils to the definition of "public service."

Article 1, section 8, clarifies powers and duties of the Commissioner relating to use of state services, the development of policies, and the provision of services and programs. Subdivision 4 allows the disclosure of settlement negotiations after final resolution of a case.

Article 1, section 9, removes obsolete language.

Article 1, section 10, changes a reference to a definition of “direct threat.”

Article 1, section 11, makes it an unfair practice to make an application form for admission that elicits improper information.

Article 1, section 12, revises language relating to various classes of business discrimination and moves it to the beginning of the section.

Article 1, section 13, adds a reference to the general definition of “public accommodation” in the prohibition of discrimination against the disabled.

Article 1, sections 14, 15, and 16, make grammatical changes.

Article 1, section 17, repeats the word “verified” in the procedure for bringing actions.

Article 1, section 18, substitutes “memorandum” for “short, plain written statement” in the requirements for service of a Commissioner’s complaint.

Article 1, sections 19 and 20, clarify references.

Article 2 removes an old schedule, a tolling provision, and two definitions.

Article 3, section 1, updates and reworks the state’s policy statement about discrimination.

Article 3, section 2, adds material to the definition of “civil right.”

Article 3, section 3, defines “direct threat.”

Article 3, section 4, adds redesign of facilities as a remedy for access for disabled persons.

Article 3, section 5, adds sexual harassment to the definition of “sex.”

Article 3, section 6, adds a definition of “verified charge.”

Article 3, sections 7 to 11, add employment by a human rights commission to the references to protected characteristics.

Article 3, section 12, adds religion and familial status to prohibited discrimination in property transactions.

Article 3, section 13, defines “reprisals” and extends the list of protected characteristics.

HW:cs

**Cities and County Human Rights Commission
League Members as of January 2005**

Albert Lea	Minneapolis
Anoka	Moorhead
Arden Hills	Morris
Austin	New Brighton
Bemidji	New Hope
Brooklyn Park	New Ulm
Chaska	Nobles County
Columbia Heights	Northfield
Cottage Grove	Olmstead County
Crystal	Owatonna
Duluth	Paynesville
Eden Prairie	Plymouth
Edina	Red Wing
Fairmont	Robbinsdale
Falcon Heights	Roseville
Fergus Falls	St Cloud
Forest Lake	St Louis Park
Golden Valley	St Peter
Hibbing	Shoreview
Hopkins	Stillwater
Isanti County	Virginia
Lake Elmo	Waseca
Maplewood	Willmar
Marshall	Winona

For additional information contact:
League of Minnesota Human Rights Commissions
4100 Lakeview Avenue North
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(763) 535-1051
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Marion Helland (763) 546-7469

***League of
Minnesota
Human Rights
Commissions***

What is the League of Minnesota Human Rights Commissions?

The League of Minnesota Human Rights Commissions, founded in 1972 and reorganized in 1987, is a coalition of local human rights commissions that have been established by charter or ordinance in communities throughout Minnesota.

While its member commissions are public agencies, the League is a private, non governmental organization with 501c3 classification under the IRS code.

Grants and gifts to the League are tax deductible.

The League is the only private, state-wide agency concerned with fighting all forms of illegal discrimination, and with enhancing the rights of all groups of people defined under the Minnesota Human Rights Act (Minn. Stat. 363A).

What is the League's Purpose?

The League shall assist county and municipal human rights/relations commissions in Minnesota to carry out the purposes of the ordinance or resolution pursuant to which they were established, and interact with all divisions of the state and other agencies, involved in the area of human rights/relations.

Other purposes include:

- To encourage and assist the development of new human rights commissions in the cities and counties throughout the State.
- To help increase the expertise and involvement level of human rights commissioners in their communities.
- To monitor, improve, and promote the use of the no-fault grievance resolution process for resolving human rights disputes on a local level.

- To gather information and publications involving human rights in Minnesota, especially touching on local opportunities and activities.
- To circulate news of human rights happenings regularly to interested parties throughout the State.
- To develop education materials on human rights, especially on the Minnesota Human Rights Act for local commissions to use in their schools and communities.
- To develop models for local human rights observances, such as Martin Luther King Jr. day, *Cinco de Mayo*, American Indian Month, Black History Month, Asian celebrations, and other such activities.
- To conduct workshops and conferences to assist and inform city and county officials and others who are concerned about enhancing the rights of all in their communities.
- To cooperate with the Minnesota Department of Human Rights in efforts to enhance human rights in Minnesota.

How is the League Managed?

The business of the League is managed by a Board of Directors, whose members are elected at the annual meeting in the fall of the year. District directors serve two year terms, and directors-at-large serve one year terms. There are 13 districts of the League.

The principle offices of the League are president, vice president, secretary, and treasurer, all of whom are elected by the board of directors at the first business meeting for a term of one year. The League Board of Directors meets monthly in cities of member commissions.

01/20/05

[COUNSEL] HW

SCS0215A-1

- 1 Senator moves to amend S.F. No. 215 as follows:
- 2 Page 2, line 27, strike "written documents" and insert
- 3 "government data as defined in section 13.02, subdivision 7" and
- 4 delete "audio and video"
- 5 Page 2, line 28, delete the new language
- 6 Page 2, line 29, delete the new language and strike
- 7 "gathered" and insert "collected"

01/20/05

[COUNSEL] HW

SCS0215A-2

- 1 Senator moves to amend S.F. No. 215 as follows:
- 2 Page 19, line 8, delete everything after the period
- 3 Page 19, delete lines 9 to 14

- 1 Senator moves to amend S.F. No. 215 as follows:
- 2 Page 24, delete section 12
- 3 Page 24, line 20, delete "13" and insert "12"
- 4 Page 25, lines 3 to 5, delete the new language
- 5 Amend the title as follows:
- 6 Page 1, line 7, delete "363A.09, subdivision 4;"

Senator Moua introduced--

S.F. No. 215: Referred to the Committee on Health and Family Security.

A bill for an act

relating to human rights; making agency technical changes; amending Minnesota Statutes 2004, sections 363A.02, subdivisions 1, 2; 363A.03, subdivisions 1, 2, 5, 8, 14, 21, 31, 35, 42, by adding subdivisions; 363A.04; 363A.06; 363A.08, subdivisions 1, 2, 3, 4, 6; 363A.09, subdivision 4; 363A.11, subdivision 4; 363A.12, subdivision 1; 363A.13, subdivision 4; 363A.15; 363A.17; 363A.19; 363A.20, subdivision 4; 363A.21, subdivisions 1, 2; 363A.28, subdivisions 1, 6, 7; 363A.29, subdivision 2; 363A.40, subdivision 1; repealing Minnesota Statutes 2004, section 363A.03, subdivisions 3, 29.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

CLARIFYING AMENDMENTS

Section 1. Minnesota Statutes 2004, section 363A.03, subdivision 1, is amended to read:

Subdivision 1. [~~TERMS~~ SCOPE.] For the purposes of this chapter, the words defined in this section have the meanings ascribed to given them.

Sec. 2. Minnesota Statutes 2004, section 363A.03, subdivision 2, is amended to read:

Subd. 2. [AGE.] The prohibition against unfair employment or education practices based on age prohibits using a person's age as a basis for a decision if the person is over the age of majority 18 years, except for section 363A.13 which shall be deemed to protect any individual over the age of 25 years.

Sec. 3. Minnesota Statutes 2004, section 363A.03,

1 subdivision 5, is amended to read:

2 Subd. 5. [CHARGING PARTY.] "Charging party" means a person
3 filing a verified charge with the commissioner or the
4 commissioner's designated agent pursuant to section 363A.28,
5 subdivision 1.

6 Sec. 4. Minnesota Statutes 2004, section 363A.03,
7 subdivision 8, is amended to read:

8 Subd. 8. [COMPLAINANT.] "Complainant" means the
9 commissioner of human rights after issuing a finding of probable
10 cause is made by the commissioner and the commissioner issues a
11 complaint pursuant to sections 363A.06, subdivision 3, paragraph
12 (8), and 363A.28, subdivisions 1 to 9.

13 Sec. 5. Minnesota Statutes 2004, section 363A.03,
14 subdivision 14, is amended to read:

15 Subd. 14. [EDUCATIONAL INSTITUTION.] "Educational
16 institution" means a public or private institution and includes
17 an academy, college, elementary or secondary school, extension
18 course, kindergarten, nursery, school system and a business,
19 nursing, professional, secretarial, technical, vocational
20 school; and includes an agent of an educational
21 institution. "Educational institution" also includes "religious
22 or denominational educational institution" as defined in section
23 363A.03, subdivision 40.

24 Sec. 6. Minnesota Statutes 2004, section 363A.03,
25 subdivision 21, is amended to read:

26 Subd. 21. [HUMAN RIGHTS INVESTIGATIVE DATA.] "Human rights
27 investigative data" means written documents, audio and video
28 tapes, or other electronically and technologically created or
29 transmitted data, issued or gathered by the department for the
30 purpose of investigating and prosecuting alleged or suspected
31 discrimination.

32 Sec. 7. Minnesota Statutes 2004, section 363A.03,
33 subdivision 35, is amended to read:

34 Subd. 35. [PUBLIC SERVICE.] "Public service" means any
35 public facility, department, agency, council, board or
36 commission, owned, operated or managed by or on behalf of the

1 state of Minnesota, or any subdivision thereof, including any
2 county, city, town, township, or independent district in the
3 state.

4 Sec. 8. Minnesota Statutes 2004, section 363A.06, is
5 amended to read:

6 363A.06 [POWERS AND DUTIES OF COMMISSIONER.]

7 Subdivision 1. [FORMULATION OF POLICIES.] The commissioner
8 shall formulate policies to effectuate the purposes of this
9 chapter and shall:

10 (1) exercise leadership under the direction of the governor
11 in the development of human rights policies, procedures, and
12 programs, and make recommendations to the governor and the
13 legislature for their consideration and implementation;

14 (2) establish and maintain a principal office in St. Paul,
15 and any other necessary branch offices at any location within
16 the state;

17 (3) meet and function at any place within the state;

18 (4) employ attorneys, clerks, and other employees and
19 agents as the commissioner may deem necessary and prescribe
20 their duties;

21 (5) to the extent permitted by federal and state law and
22 regulation, utilize the records and services of the ~~Department~~
23 ~~of-Employment-and-Economic-Development-of-the-state~~ all state
24 governmental departments and agencies when necessary to
25 effectuate the purposes of this chapter;

26 ~~(6) obtain-upon-request-and-utilize-the-services-of-all~~
27 ~~state-governmental-departments-and-agencies;~~

28 ~~(7)~~ adopt suitable rules for effectuating the purposes of
29 this chapter;

30 ~~(8)~~ (7) issue complaints, receive and investigate charges
31 alleging unfair discriminatory practices, and determine whether
32 or not probable cause exists for hearing;

33 ~~(9)~~ (8) subpoena witnesses, administer oaths, take
34 testimony, and require the production for examination of any
35 books or papers relative to any matter under investigation or in
36 question as the commissioner deems appropriate to carry out the

1 purposes of this chapter;

2 ~~(10)~~ (9) attempt, by means of education, conference,
3 conciliation, and persuasion to eliminate unfair discriminatory
4 practices as being contrary to the public policy of the state;

5 ~~(11)~~ (10) develop and conduct programs of formal and
6 informal education designed to eliminate discrimination and
7 intergroup conflict by use of educational techniques and
8 programs the commissioner deems necessary;

9 ~~(12)~~ (11) make a written report of the activities of the
10 commissioner to the governor each year;

11 ~~(13)~~ (12) accept gifts, bequests, grants or other payments
12 public and private to help finance the activities of the
13 department;

14 ~~(14)~~ (13) create such local and statewide advisory
15 committees as will in the commissioner's judgment aid in
16 effectuating the purposes of the Department of Human Rights;

17 (14) provide staff services to such advisory committees as
18 may be created in aid of the functions of the Department of
19 Human Rights;

20 (15) develop such programs as will aid in determining the
21 compliance throughout the state with the provisions of this
22 chapter, and in the furtherance of such duties, conduct research
23 and study discriminatory practices based upon race, color,
24 creed, religion, national origin, sex, age, disability, marital
25 status, status with regard to public assistance, familial
26 status, sexual orientation, membership or activity in a local
27 human rights commission, or other factors and. Develop accurate
28 data on the nature and extent of discrimination and other
29 matters as they may affect housing, employment, public
30 accommodations, ~~schools, and other areas of public life~~ public
31 services, education, credit, and business;

32 (16) develop and disseminate technical assistance to
33 persons subject to the provisions of this chapter, and to
34 agencies and officers of governmental and private agencies;

35 ~~(17)-provide-staff-services-to-such-advisory-committees-as~~
36 ~~may-be-created-in-aid-of-the-functions-of-the-Department-of~~

1 Human-Rights;

2 ~~(18)~~ (17) make grants in aid to the extent that
3 appropriations are made available for ~~that~~ the purpose in-aid of
4 carrying out the duties and responsibilities of this chapter;
5 and

6 ~~(19)~~ (18) cooperate and consult with the commissioner of
7 labor and industry regarding the investigation of violations of,
8 and resolution of complaints regarding section 363A.08,
9 subdivision 7.

10 In performing these duties, the commissioner shall give
11 priority to those duties in clauses (7), (8), and (9), ~~and-(10)~~
12 and to the duties in section 363A.36.

13 Subd. 2. [SERVICE, ENFORCEMENT, AND EFFECT OF SUBPOENA.]

14 (a) Disobedience of a subpoena issued by the commissioner
15 pursuant to subdivision 1, clause (8), shall be punishable in
16 like manner as a contempt of the district court in proceedings
17 instituted upon application of the commissioner made to the
18 district court of the county where the alleged unfair
19 discriminatory practice in connection with a charge made by a
20 charging party or a complaint filed by the commissioner has
21 occurred or where the respondent resides or has a principal
22 place of business.

23 (b) It is not a violation of rights conferred by chapter 13
24 or any other statute related to the confidentiality of
25 government data for a state agency, statewide system, or
26 political subdivision, as defined in section 13.02, subdivision
27 11, to provide data or information under a subpoena issued by
28 the commissioner under this section.

29 (c) A subpoena issued under subdivision 1, clause (8), must
30 be served personally or by mailing a copy of the subpoena, by
31 first class mail, postage prepaid, to the person to be served.
32 The subpoena must include two copies of a notice and
33 acknowledgment of service on a form to be provided by the
34 commissioner, and a return envelope, postage prepaid, addressed
35 to the sender. If acknowledgment of service is not received by
36 the commissioner within 20 days, service is not effective.

1 Unless good cause is shown for not doing so, a court or
2 administrative law judge shall order the payment of the costs of
3 personal service by the person served if the person does not
4 complete and return the notice and acknowledgment of receipt of
5 the subpoena within the time allowed.

6 Subd. 3. [MISSION; EFFICIENCY.] It is part of the
7 department's mission that within the department's resources the
8 commissioner shall endeavor to:

9 (1) prevent the waste or unnecessary spending of public
10 money;

11 (2) use innovative fiscal and human resource practices to
12 manage the state's resources and operate the department as
13 efficiently as possible;

14 (3) coordinate the department's activities wherever
15 appropriate with the activities of other governmental agencies;

16 (4) use technology where appropriate to increase agency
17 productivity, improve customer service, increase public access
18 to information about government, and increase public
19 participation in the business of government;

20 (5) utilize constructive and cooperative labor-management
21 practices ~~to-the-extent-otherwise~~ as required by chapters 43A
22 and 179A;

23 (6) report to the legislature on the performance of agency
24 operations and the accomplishment of agency goals in the
25 agency's biennial budget according to section 16A.10,
26 subdivision 1; and

27 (7) recommend to the legislature appropriate changes in law
28 necessary to carry out the mission and improve the performance
29 of the department.

30 Subd. 4. [PUBLICATION OF CASE ACCOUNT.] The commissioner
31 may publish an account of a case in which the complaint has been
32 dismissed or the terms of settlement of a case that has been
33 voluntarily adjusted. Except as provided in other sections of
34 this chapter, the commissioner shall not disclose any
35 information concerning ~~efforts~~ settlement negotiations in a
36 particular case ~~to-eliminate-an-unfair-discriminatory-practice~~

1 ~~through-education,-conference,-conciliation-and-persuasion~~ prior
2 to final resolution.

3 Sec. 9. Minnesota Statutes 2004, section 363A.08,
4 subdivision 6, is amended to read:

5 Subd. 6. [REASONABLE ACCOMMODATION.] Except when based on
6 a bona fide occupational qualification, it is an unfair
7 employment practice for an employer ~~with-a-number-of~~ who employs
8 equal to or greater than 15 part-time or full-time employees for
9 each working day in each of 20 or more calendar weeks in the
10 current or preceding calendar year ~~equal-to-or-greater-than-25~~
11 ~~effective-July-17-1992,-and-equal-to-or-greater-than-15~~
12 ~~effective-July-17-1994,~~ an employment agency, or a labor
13 organization, not to make reasonable accommodation to the known
14 disability of a qualified disabled person or job applicant
15 unless the employer, agency, or organization can demonstrate
16 that the accommodation would impose an undue hardship on the
17 business, agency, or organization. "Reasonable accommodation"
18 means steps which must be taken to accommodate the known
19 physical or mental limitations of a qualified disabled person.
20 "Reasonable accommodation" may include but is not limited to,
21 nor does it necessarily require: (a) making facilities readily
22 accessible to and usable by disabled persons; and (b) job
23 restructuring, modified work schedules, reassignment to a vacant
24 position, acquisition or modification of equipment or devices,
25 and the provision of aides on a temporary or periodic basis.

26 In determining whether an accommodation would impose an
27 undue hardship on the operation of a business or organization,
28 factors to be considered include:

29 (a) the overall size of the business or organization with
30 respect to number of employees or members and the number and
31 type of facilities;

32 (b) the type of the operation, including the composition
33 and structure of the work force, and the number of employees at
34 the location where the employment would occur;

35 (c) the nature and cost of the needed accommodation;

36 (d) the reasonable ability to finance the accommodation at

1 each site of business; and

2 (e) documented good faith efforts to explore less
3 restrictive or less expensive alternatives, including
4 consultation with the disabled person or with knowledgeable
5 disabled persons or organizations.

6 A prospective employer need not pay for an accommodation
7 for a job applicant if it is available from an alternative
8 source without cost to the employer or applicant.

9 Sec. 10. Minnesota Statutes 2004, section 363A.11,
10 subdivision 4, is amended to read:

11 Subd. 4. [DIRECT THREAT TO HEALTH AND SAFETY.] Nothing in
12 this chapter requires an entity to permit an individual to
13 participate in and benefit from the goods, services, facilities,
14 privileges, advantages, and accommodations of the entity if the
15 individual poses a direct threat, as defined in section 363A.03,
16 subdivision 11a, to the health or safety of others. "Direct
17 threat"-means-a-significant-risk-to-the-health-or-safety-of
18 others-that-cannot-be-eliminated-by-a-modification-of-policies,
19 practices,-or-procedures-or-by-the-provision-of-auxiliary-aids
20 or-services.

21 Sec. 11. Minnesota Statutes 2004, section 363A.13,
22 subdivision 4, is amended to read:

23 Subd. 4. [PURPOSE FOR INFORMATION AND RECORD.] It is an
24 unfair discriminatory practice to make or use a written or oral
25 inquiry or form of application for admission that elicits or
26 attempts to elicit information, or to make or keep a record
27 concerning the race, color, national origin, sex, age, or
28 marital status of a person seeking admission, unless the
29 information is collected for purposes of evaluating the
30 effectiveness of recruitment, admissions, and other educational
31 policies, and is maintained separately from the application.

32 Sec. 12. Minnesota Statutes 2004, section 363A.17, is
33 amended to read:

34 363A.17 [BUSINESS DISCRIMINATION.]

35 It is an unfair discriminatory practice for a person
36 engaged in a trade or business or in the provision of a service:

1 (a) to intentionally refuse to do business with, to refuse
 2 to contract with, to refuse to provide a service to or to
 3 discriminate in the basic terms, conditions, or performance of
 4 the contract because of a person's race, national origin, color,
 5 sex, sexual orientation, or disability, unless the alleged
 6 refusal or discrimination is because of a legitimate business
 7 purpose;

8 ~~(a)~~ (b) to refuse to do business with or provide a service
 9 to a woman based on her use of her current or former surname; or

10 ~~(b)~~ (c) to impose, as a condition of doing business with or
 11 providing a service to a woman, that a woman use her current
 12 surname rather than a former surname; ~~or~~

13 ~~(c) to intentionally refuse to do business with, to refuse~~
 14 ~~to contract with, or to discriminate in the basic terms,~~
 15 ~~conditions, or performance of the contract because of a person's~~
 16 ~~race, national origin, color, sex, sexual orientation, or~~
 17 ~~disability, unless the alleged refusal or discrimination is~~
 18 ~~because of a legitimate business purpose.~~

19 Nothing in this section shall prohibit positive action
 20 plans.

21 Sec. 13. Minnesota Statutes 2004, section 363A.19, is
 22 amended to read:

23 363A.19 [DISCRIMINATION AGAINST BLIND, DEAF, OR OTHER
 24 PERSONS WITH PHYSICAL OR SENSORY DISABILITIES PROHIBITED.]

25 (a) It is an unfair discriminatory practice for an owner,
 26 operator, or manager of a hotel, restaurant, public conveyance,
 27 or other place of public place accommodation as defined in
 28 section 363A.03, subdivision 34, to prohibit a blind or deaf
 29 person or a person with a physical or sensory disability from
 30 taking a service animal into the public place or conveyance if
 31 the service animal can be properly identified as being from a
 32 recognized program which trains service animals to aid blind or
 33 deaf persons or persons with physical or sensory disabilities,
 34 and if the animal is properly harnessed or leashed so that the
 35 blind or deaf person or a person with a physical or sensory
 36 disability may maintain control of the animal.

1 (b) No person shall require a blind, physically
2 handicapped, or deaf person to make an extra payment or pay an
3 additional charge when taking a service animal into any of the
4 public places referred to in paragraph (a).

5 Sec. 14. Minnesota Statutes 2004, section 363A.20,
6 subdivision 4, is amended to read:

7 Subd. 4. [EMPLOYMENT SELECTION.] The provisions of section
8 363A.08 do not apply to the employment of one person in place of
9 another which, standing by itself, shall not be considered
10 evidence of an unfair discriminatory practice.

11 Sec. 15. Minnesota Statutes 2004, section 363A.21,
12 subdivision 1, is amended to read:

13 Subdivision 1. [HOUSING.] The provisions of section
14 363A.09 shall not apply to:

15 (a) rooms in a temporary or permanent residence home run by
16 a nonprofit organization, if the discrimination is by on the
17 basis of sex;

18 (b) the rental by a resident owner or occupier of a
19 one-family accommodation of a room or rooms in the accommodation
20 to another person or persons if the discrimination is by on the
21 basis of sex, marital status, status with regard to public
22 assistance, sexual orientation, or disability. Except as
23 provided elsewhere in this chapter or other state or federal
24 law, no person or group of persons selling, renting, or leasing
25 property is required to modify the property in any way, or
26 exercise a higher degree of care for a person having a
27 disability than for a person who does not have a disability; nor
28 shall this chapter be construed to relieve any person or persons
29 of any obligations generally imposed on all persons regardless
30 of any disability in a written lease, rental agreement, or
31 contract of purchase or sale, or to forbid distinctions based on
32 the inability to fulfill the terms and conditions, including
33 financial obligations of the lease, agreement, or contract; or

34 (c) the rental by a resident owner of a unit in a dwelling
35 containing not more than two units, if the discrimination is on
36 the basis of sexual orientation.

1 Sec. 16. Minnesota Statutes 2004, section 363A.21,
2 subdivision 2, is amended to read:

3 Subd. 2. [FAMILIAL STATUS.] (a) The provisions of section
4 363A.09 prohibiting discrimination because on the basis of
5 familial status shall not be construed to defeat the
6 applicability of any local, state, or federal restrictions
7 regarding the maximum number of occupants permitted to occupy a
8 dwelling unit and shall not apply to any owner occupied building
9 containing four or fewer dwelling units or housing for elderly
10 persons.

11 (b) "Housing for elderly persons" means housing:

12 (1) provided under any state or federal program that the
13 commissioner determines is specifically designed and operated to
14 assist elderly persons, as defined in the state or federal
15 program;

16 (2) intended for, and solely occupied by, persons 62 years
17 of age or older; or

18 (3) intended and operated for occupancy by at least one
19 person 55 years of age or older per unit, provided that at least
20 80 percent of the units are occupied by at least one person 55
21 years of age or older per unit, and there is publication of, and
22 adherence to, policies and procedures that demonstrate an intent
23 by the owner or manager to provide housing for persons 55 years
24 of age or older.

25 (c) Housing does not fail to meet the requirements for
26 housing for elderly persons by reason of persons residing in the
27 housing as of August 1, 1989, who do not meet the age
28 requirements of paragraph (b), clauses (2) and (3), if new
29 occupants of the housing meet the age requirements of paragraph
30 (b), clause (2) or (3). In addition, housing does not fail to
31 meet the requirements by reason of unoccupied units if
32 unoccupied units are reserved for occupancy by persons who meet
33 the age requirements of paragraph (b), clause (2) or (3).

34 Sec. 17. Minnesota Statutes 2004, section 363A.28,
35 subdivision 1, is amended to read:

36 Subdivision 1. [ACTIONS.] Any person aggrieved by a

1 violation of this chapter may bring a civil action as provided
2 in section 363A.33, subdivision 1, or may file a verified charge
3 with the commissioner or the commissioner's designated agent. A
4 verified charge filed with the commissioner must be in writing
5 on a form provided by the commissioner and signed by the
6 charging party. The charge must state the name of the person
7 alleged to have committed an unfair discriminatory practice and
8 set out a summary of the details of the practice complained of.
9 The commissioner may require a charging party to provide the
10 address of the person alleged to have committed the unfair
11 discriminatory practice, names of witnesses, documents, and any
12 other information necessary to process the charge. The
13 commissioner may dismiss a charge when the charging party fails
14 to provide required information. The commissioner within ten
15 days of the filing shall serve a copy of the charge and a form
16 for use in responding to the charge upon the respondent
17 personally or by mail. The respondent shall file with the
18 department a written response setting out a summary of the
19 details of the respondent's position relative to the charge
20 within 20 days of receipt of the charge. If the respondent
21 fails to respond with a written summary of the details of the
22 respondent's position within 30 days after service of the
23 charge, and service was consistent with Rule 4 of the Rules of
24 Civil Procedure, the commissioner, on behalf of the complaining
25 party, may bring an action for default in district court
26 pursuant to Rule 55.01 of the Rules of Civil Procedure.

27 Sec. 18. Minnesota Statutes 2004, section 363A.28,
28 subdivision 6, is amended to read:

29 Subd. 6. [CHARGE PROCESSING.] (1) Consistent with clause
30 (7), the commissioner shall promptly inquire into the truth of
31 the allegations of the charge. The commissioner shall make an
32 immediate inquiry when a charge alleges actual or threatened
33 physical violence. The commissioner shall also make an
34 immediate inquiry when it appears that a charge is frivolous or
35 without merit and shall dismiss those charges.

36 The commissioner shall give priority to investigating and

1 processing those charges, in the order below, which the
2 commissioner determines have the following characteristics:

3 (a) there is evidence of irreparable harm if immediate
4 action is not taken;

5 (b) there is evidence that the respondent has intentionally
6 engaged in a reprisal;

7 (c) a significant number of recent charges have been filed
8 against the respondent;

9 (d) the respondent is a government entity;

10 (e) there is potential for broadly promoting the policies
11 of this chapter; or

12 (f) the charge is supported by substantial and credible
13 documentation, witnesses, or other evidence.

14 The commissioner shall inform charging parties of these
15 priorities and shall tell each party if their charge is a
16 priority case or not.

17 On other charges the commissioner shall make a
18 determination within 12 months after the charge was filed as to
19 whether or not there is probable cause to credit the allegation
20 of unfair discriminatory practices, ~~and~~.

21 (2) If the commissioner determines after investigation that
22 no probable cause exists to credit the allegations of the unfair
23 discriminatory practice, the commissioner shall, within ten days
24 of the determination, serve upon the charging party and
25 respondent written notice of the determination. Within ten days
26 after receipt of notice, the charging party may request in
27 writing, on forms prepared by the department, that the
28 commissioner reconsider the determination. The request shall
29 contain a brief statement of the reasons for and new evidence in
30 support of the request for reconsideration. At the time of
31 submission of the request to the commissioner, the charging
32 party shall deliver or mail to the respondent a copy of the
33 request for reconsideration. The commissioner shall reaffirm,
34 reverse, or vacate and remand for further consideration the
35 determination of no probable cause within 20 days after receipt
36 of the request for reconsideration, and shall within ten days

1 notify in writing the charging party and respondent of the
2 decision to reaffirm, reverse, or vacate and remand for further
3 consideration.

4 A decision by the commissioner that no probable cause
5 exists to credit the allegations of an unfair discriminatory
6 practice shall not be appealed to the Court of Appeals pursuant
7 to section 363A.36 or sections 14.63 to 14.68.

8 (3) If the commissioner determines after investigation that
9 probable cause exists to credit the allegations of unfair
10 discriminatory practices, the commissioner shall serve on the
11 respondent and the respondent's attorney if the respondent is
12 represented by counsel, by first class mail, a notice setting
13 forth a ~~short-plain-written-statement~~ memorandum of the alleged
14 facts which support the finding of probable cause and an
15 enumeration of the provisions of law allegedly violated. If the
16 commissioner determines that attempts to eliminate the alleged
17 unfair practices through conciliation pursuant to subdivision 8
18 have been or would be unsuccessful or unproductive, the
19 commissioner shall issue a complaint and serve on the
20 respondent, by registered or certified mail, a written notice of
21 hearing together with a copy of the complaint, requiring the
22 respondent to answer the allegations of the complaint at a
23 hearing before an administrative law judge at a time and place
24 specified in the notice, not less than ten days after service of
25 said complaint. A copy of the notice shall be furnished to the
26 charging party and the attorney general.

27 (4) If, at any time after the filing of a charge, the
28 commissioner has reason to believe that a respondent has engaged
29 in any unfair discriminatory practice, the commissioner may file
30 a petition in the district court in a county in which the
31 subject of the complaint occurs, or in a county in which a
32 respondent resides or transacts business, seeking appropriate
33 temporary relief against the respondent, pending final
34 determination of proceedings under this chapter, including an
35 order or decree restraining the respondent from doing or
36 procuring an act tending to render ineffectual an order the

1 commissioner may enter with respect to the complaint. The court
2 shall have power to grant temporary relief or a restraining
3 order as it deems just and proper, but no relief or order
4 extending beyond ten days shall be granted except by consent of
5 the respondent or after hearing upon notice to the respondent
6 and a finding by the court that there is reasonable cause to
7 believe that the respondent has engaged in a discriminatory
8 practice. Except as modified by subdivisions 1 to 9 and section
9 363A.06, subdivision 4, the Minnesota Rules of Civil Procedure
10 shall apply to an application, and the district court shall have
11 authority to grant or deny the relief sought on conditions as it
12 deems just and equitable. All hearings under subdivisions 1 to
13 9 and section 363A.06, subdivision 4, shall be given precedence
14 as nearly as practicable over all other pending civil actions.

15 (5) If a lessor, after engaging in a discriminatory
16 practice defined in section 363A.09, subdivision 1, clause (a),
17 leases or rents a dwelling unit to a person who has no knowledge
18 of the practice or of the existence of a charge with respect to
19 the practice, the lessor shall be liable for actual damages
20 sustained by a person by reason of a final order as provided in
21 subdivisions 1 to 9 and section 363A.06, subdivision 4,
22 requiring the person to be evicted from the dwelling unit.

23 (6) In any complaint issued under subdivisions 1 to 9 and
24 section 363A.06, subdivision 4, the commissioner may seek relief
25 for a class of individuals affected by an unfair discriminatory
26 practice occurring on or after a date one year prior to the
27 filing of the charge from which the complaint originates.

28 (7) The commissioner may adopt policies to determine which
29 charges are processed and the order in which charges are
30 processed based on their particular social or legal
31 significance, administrative convenience, difficulty of
32 resolution, or other standard consistent with the provisions of
33 this chapter.

34 (8) The chief administrative law judge shall adopt policies
35 to provide sanctions for intentional and frivolous delay caused
36 by any charging party or respondent in an investigation,

1 hearing, or any other aspect of proceedings before the
2 department under this chapter.

3 Sec. 19. Minnesota Statutes 2004, section 363A.28,
4 subdivision 7, is amended to read:

5 Subd. 7. [APPLICATION OF RULES.] Rules adopted pursuant to
6 this ~~subdivision~~ chapter apply to cases pending before the
7 commissioner on the date of adoption.

8 Sec. 20. Minnesota Statutes 2004, section 363A.40,
9 subdivision 1, is amended to read:

10 Subdivision 1. [DEFINITIONS.] The definitions in this
11 subdivision apply to this section.

12 (a) "Accessible unit" means an accessible rental housing
13 unit that meets the handicapped facility requirements of the
14 State Building Code, Minnesota Rules, chapter ~~1340~~ 1341.

15 (b) "Landlord" has the meaning given it in section
16 504B.001, subdivision 7.

17 ARTICLE 2

18 OBSOLETE LANGUAGE AMENDMENTS

19 Section 1. Minnesota Statutes 2004, section 363A.12,
20 subdivision 1, is amended to read:

21 Subdivision 1. [ACCESS TO PUBLIC SERVICE.] It is an unfair
22 discriminatory practice to discriminate against any person in
23 the access to, admission to, full utilization of or benefit from
24 any public service because of race, color, creed, religion,
25 national origin, disability, sex, sexual orientation, or status
26 with regard to public assistance or to fail to ensure physical
27 and program access for disabled persons unless the public
28 service can demonstrate that providing the access would impose
29 an undue hardship on its operation. In determining whether
30 providing physical and program access would impose an undue
31 hardship, factors to be considered include:

32 (a) the type and purpose of the public service's operation;

33 (b) the nature and cost of the needed accommodation;

34 (c) documented good faith efforts to explore less
35 restrictive or less expensive alternatives; and

36 (d) the extent of consultation with knowledgeable disabled

1 persons and organizations.

2 ~~Physical and program access must be accomplished within six~~
3 ~~months of June 7, 1983, except for needed architectural~~
4 ~~modifications, which must be made within two years of June 7,~~
5 ~~1983.~~

6 Sec. 2. Minnesota Statutes 2004, section 363A.29,
7 subdivision 2, is amended to read:

8 Subd. 2. [HEARINGS 180 DAYS AFTER CHARGE.] At any time
9 after 180 days from the filing of a charge, if there has been
10 neither a finding of probable cause nor of no probable cause,
11 the charging party may file a request with the commissioner to
12 appear at a hearing on the party's own behalf or through a
13 private attorney. The amount of time during which a case is
14 involved in significant settlement negotiations, is being
15 investigated by another enforcement agency under a work sharing
16 agreement, or has been referred to mediation ~~or to a local human~~
17 ~~rights commission for no-fault grievance processing~~ is not
18 counted in computing the 180 days. Tolling of the time during
19 settlement negotiations requires written approval of the
20 charging party or the party's attorney. The right of a charging
21 party to file a request for hearing does not apply in cases that
22 have been certified as complex by the commissioner within 60
23 days of the filing of the charge. A case may not be certified
24 as complex unless it involves multiple parties or issues,
25 presents complex issues of law or fact, or presents
26 substantially new issues of law in the discrimination area.
27 Within five days of certifying a case as complex, the
28 commissioner shall give notice of the certification to the
29 charging party and the respondent. The commissioner shall make
30 a determination of probable cause or no probable cause within
31 one year of the filing of a case in which the time has not been
32 counted or a case certified as complex. Upon receipt of the
33 request, the commissioner shall review the documents and
34 information held in the department's files concerning the charge
35 and shall release to the charging party and respondent all
36 documents and information that are accessible to the charging

1 party and respondent under chapter 13. The commissioner shall
2 forward the request for hearing to the Office of Administrative
3 Hearings, which shall promptly set the matter for hearing. If
4 the charging party prevails at this hearing, the administrative
5 law judge may require the respondent to reimburse the charging
6 party for reasonable attorney's fees.

7 Sec. 3. [REPEALER.]

8 Minnesota Statutes 2004, section 363A.03, subdivisions 3
9 and 29, are repealed.

10 ARTICLE 3

11 OMISSIONS AMENDMENTS

12 Section 1. Minnesota Statutes 2004, section 363A.02,
13 subdivision 1, is amended to read:

14 Subdivision 1. [FREEDOM FROM DISCRIMINATION.] (a) It is
15 the public policy of this state to secure for persons in this
16 state, freedom from discrimination:

17 (1) in employment because of race, color, creed, religion,
18 national origin, sex, marital status, disability, status with
19 regard to public assistance, sexual orientation, and age, and
20 membership or activity in a local human rights commission;

21 (2) in housing and real property because of race, color,
22 creed, religion, national origin, sex, marital status,
23 disability, status with regard to public assistance, sexual
24 orientation, and familial status;

25 (3) in public accommodations because of race, color, creed,
26 religion, national origin, sex, marital status, sexual
27 orientation, and disability;

28 (4) in public services because of race, color, creed,
29 religion, national origin, sex, marital status, disability,
30 sexual orientation, and status with regard to public assistance;
31 and

32 (5) in education because of race, color, creed, religion,
33 national origin, sex, marital status, disability, status with
34 regard to public assistance, sexual orientation, and age;

35 (6) in credit because of race, color, creed, religion,
36 national origin, sex, marital status, disability, status with

1 regard to public assistance, and sexual orientation;
2 (7) in business because of race, color, national origin,
3 sex, disability, and sexual orientation; and
4 (8) due to reprisal because of race, color, creed,
5 religion, national origin, sex, marital status, disability,
6 status with regard to public assistance, age, sexual
7 orientation, familial status, or membership or activity in a
8 local human rights commission. Such discrimination threatens
9 the rights and privileges of the inhabitants of this state and
10 menaces the institutions and foundations of democracy. It is
11 also the public policy of this state to protect all persons from
12 wholly unfounded charges of discrimination. Nothing in this
13 chapter shall be interpreted as restricting the implementation
14 of positive action programs to combat discrimination.

15 (b) Such discrimination threatens the rights and privileges
16 of the inhabitants of this state and menaces the institutions
17 and foundations of democracy. It is also the public policy of
18 this state to protect all persons from wholly unfounded charges
19 of discrimination. Nothing in this chapter shall be interpreted
20 as restricting the implementation of positive action programs to
21 combat discrimination.

22 Sec. 2. Minnesota Statutes 2004, section 363A.02,
23 subdivision 2, is amended to read:

24 Subd. 2. [CIVIL RIGHT.] The opportunity to obtain
25 employment, housing, and other real estate, and credit; the
26 opportunity to conduct business; and the opportunity to obtain
27 full and equal utilization of public accommodations, public
28 services, and educational institutions without such
29 discrimination as is prohibited by this chapter ~~is~~ are hereby
30 recognized as and declared to be a civil right rights.

31 Sec. 3. Minnesota Statutes 2004, section 363A.03, is
32 amended by adding a subdivision to read:

33 Subd. 11a. [DIRECT THREAT.] "Direct threat" means a
34 significant risk to the health or safety of others that cannot
35 be eliminated by a modification of policies, practices, or
36 procedures or by the provision of auxiliary aids or services.

1 Sec. 4. Minnesota Statutes 2004, section 363A.03,
2 subdivision 31, is amended to read:

3 Subd. 31. [PHYSICAL ACCESS.] "Physical access" means (1)
4 the absence of physical obstacles that limit a disabled person's
5 opportunity for full and equal use of or benefit from goods,
6 services, and privileges; or, when necessary, (2) the use of
7 methods to overcome the discriminatory effect of physical
8 obstacles. The methods may include redesign of equipment, or
9 facilities, assignment of aides, or use of alternate accessible
10 locations.

11 Sec. 5. Minnesota Statutes 2004, section 363A.03,
12 subdivision 42, is amended to read:

13 Subd. 42. [SEX.] "Sex" includes, but is not limited to,
14 pregnancy, childbirth, and disabilities related to pregnancy or
15 childbirth, and sexual harassment.

16 Sec. 6. Minnesota Statutes 2004, section 363A.03, is
17 amended by adding a subdivision to read:

18 Subd. 50. [VERIFIED CHARGE.] "Verified charge" means a
19 written statement signed under oath or affirmation, filed by any
20 person including the commissioner, containing a statement of
21 allegation that a person may have engaged or may be engaging in
22 an unfair discriminatory practice.

23 Sec. 7. Minnesota Statutes 2004, section 363A.04, is
24 amended to read:

25 363A.04 [CONSTRUCTION AND EXCLUSIVITY.]

26 The provisions of this chapter shall be construed liberally
27 for the accomplishment of the purposes thereof. Nothing
28 contained in this chapter shall be deemed to repeal any of the
29 provisions of the civil rights law or of any other law of this
30 state relating to discrimination because of race, creed, color,
31 religion, sex, age, disability, marital status, status with
32 regard to public assistance, national origin, sexual
33 orientation, or familial status, or membership or activity in a
34 local human rights commission; but, as to acts declared unfair
35 by sections 363A.08 to 363A.19, and 363A.28, subdivision 10, the
36 procedure herein provided shall, while pending, be exclusive.

1 Sec. 8. Minnesota Statutes 2004, section 363A.08,
2 subdivision 1, is amended to read:

3 Subdivision 1. [LABOR ORGANIZATION.] Except when based on
4 a bona fide occupational qualification, it is an unfair
5 employment practice for a labor organization, because of race,
6 color, creed, religion, national origin, sex, marital status,
7 status with regard to public assistance, disability, sexual
8 orientation, or age, or membership or activity in a local human
9 rights commission:

10 (a) to deny full and equal membership rights to a person
11 seeking membership or to a member;

12 (b) to expel a member from membership;

13 (c) to discriminate against a person seeking membership or
14 a member with respect to hiring, apprenticeship, tenure,
15 compensation, terms, upgrading, conditions, facilities, or
16 privileges of employment; or

17 (d) to fail to classify properly, or refer for employment
18 or otherwise to discriminate against a person or member.

19 Sec. 9. Minnesota Statutes 2004, section 363A.08,
20 subdivision 2, is amended to read:

21 Subd. 2. [EMPLOYER.] Except when based on a bona fide
22 occupational qualification, it is an unfair employment practice
23 for an employer, because of race, color, creed, religion,
24 national origin, sex, marital status, status with regard to
25 public assistance, membership or activity in a local human
26 rights commission, disability, sexual orientation, or age to:

27 (a) refuse to hire or to maintain a system of employment
28 which unreasonably excludes a person seeking employment; or

29 (b) discharge an employee; or

30 (c) discriminate against a person with respect to hiring,
31 tenure, compensation, terms, upgrading, conditions, facilities,
32 or privileges of employment.

33 Sec. 10. Minnesota Statutes 2004, section 363A.08,
34 subdivision 3, is amended to read:

35 Subd. 3. [EMPLOYMENT AGENCY.] Except when based on a bona
36 fide occupational qualification, it is an unfair employment

1 practice for an employment agency, because of race, color,
2 creed, religion, national origin, sex, marital status, status
3 with regard to public assistance, disability, sexual
4 orientation, or age, or membership or activity in a local human
5 rights commission to:

6 (a) refuse or fail to accept, register, classify properly,
7 or refer for employment or otherwise to discriminate against a
8 person; or

9 (b) comply with a request from an employer for referral of
10 applicants for employment if the request indicates directly or
11 indirectly that the employer fails to comply with the provisions
12 of this chapter.

13 Sec. 11. Minnesota Statutes 2004, section 363A.08,
14 subdivision 4, is amended to read:

15 Subd. 4. [EMPLOYER, EMPLOYMENT AGENCY, OR LABOR
16 ORGANIZATION.] (a) Except when based on a bona fide occupational
17 qualification, it is an unfair employment practice for an
18 employer, employment agency, or labor organization, before a
19 person is employed by an employer or admitted to membership in a
20 labor organization, to:

21 (1) require or request the person to furnish information
22 that pertains to race, color, creed, religion, national origin,
23 sex, marital status, status with regard to public assistance,
24 disability, sexual orientation, or age, or membership or
25 activity in a local human rights commission; or, subject to
26 section 363A.20, subdivisions 1 to 7, and 8, paragraph (a),
27 clauses (1) to (5), to require or request a person to undergo
28 physical examination; unless for the sole and exclusive purpose
29 of national security, information pertaining to national
30 origin ~~is~~ as required by the United States, this state or a
31 political subdivision or agency of the United States or of this
32 state, or for the sole and exclusive purpose of compliance with
33 the Public Contracts Act or any rule, regulation, or laws of the
34 United States or of this state requiring the information or
35 examination. A law enforcement agency may, after notifying an
36 applicant for a peace officer or part-time peace officer

1 position that the law enforcement agency is commencing the
2 background investigation on the applicant, request the
3 applicant's date of birth, gender, and race on a separate form
4 for the sole and exclusive purpose of conducting a criminal
5 history check, a driver's license check, and fingerprint
6 criminal history inquiry. The form shall include a statement
7 indicating why the data is being collected and what its limited
8 use will be. No document which has date of birth, gender, or
9 race information will be included in the information given to or
10 available to any person who is involved in selecting the person
11 or persons employed other than the background investigator. No
12 person may act both as background investigator and be involved
13 in the selection of an employee except that the background
14 investigator's report about background may be used in that
15 selection as long as no direct or indirect references are made
16 to the applicant's race, age, or gender; or

17 (2) seek and obtain for purposes of making a job decision,
18 information from any source that pertains to the person's race,
19 color, creed, religion, national origin, sex, marital status,
20 status with regard to public assistance, disability, sexual
21 orientation, membership or activity in a local human rights
22 commission, or age, unless for the sole and exclusive purpose of
23 compliance with the Public Contracts Act or any rule,
24 regulation, or laws of the United States or of this state
25 requiring the information; or

26 (3) cause to be printed or published a notice or
27 advertisement that relates to employment or membership and
28 discloses a preference, limitation, specification, or
29 discrimination based on race, color, creed, religion, national
30 origin, sex, marital status, status with regard to public
31 assistance, membership or activity in a local human rights
32 commission, disability, sexual orientation, or age.

33 (b) Any individual who is required to provide information
34 that is prohibited by this subdivision is an aggrieved party
35 person under section 363A.06, subdivision 4, and 363A.28,
36 subdivisions 1 to 9.

1 Sec. 12. Minnesota Statutes 2004, section 363A.09,
2 subdivision 4, is amended to read:

3 Subd. 4. [REAL PROPERTY TRANSACTION.] It is an unfair
4 discriminatory practice for any real estate broker or real
5 estate salesperson, for the purpose of inducing a real property
6 transaction from which the person, the person's firm, or any of
7 its members may benefit financially, to represent that a change
8 has occurred or will or may occur in the composition with
9 respect to race, creed, color, national origin, sex, marital
10 status, status with regard to public assistance, sexual
11 orientation, religion, familial status, or disability of the
12 owners or occupants in the block, neighborhood, or area in which
13 the real property is located, and to represent, directly or
14 indirectly, that this change will or may result in undesirable
15 consequences in the block, neighborhood, or area in which the
16 real property is located, including but not limited to the
17 lowering of property values, an increase in criminal or
18 antisocial behavior, or a decline in the quality of schools or
19 other public facilities.

20 Sec. 13. Minnesota Statutes 2004, section 363A.15, is
21 amended to read:

22 363A.15 [REPRISALS.]

23 A reprisal includes, but is not limited to, any form of
24 intimidation, retaliation, or harassment. It is an unfair
25 discriminatory practice for any individual who participated in
26 the alleged discrimination as a perpetrator, employer, labor
27 organization, employment agency, public accommodation, public
28 service, educational institution, or owner, lessor, lessee,
29 sublessee, assignee or managing agent of any real property, or
30 any real estate broker, real estate salesperson, or employee or
31 agent thereof to intentionally engage in any reprisal against
32 any person because that person:

33 (1) Opposed a practice forbidden under this chapter or has
34 filed a charge, testified, assisted, or participated in any
35 manner in an investigation, proceeding, or hearing under this
36 chapter; or

1 (2) Associated with a person or group of persons who are
2 disabled or who are of different race, color, creed, religion,
3 sexual orientation, sex, age, familial status, marital status,
4 status with regard to public assistance, and membership or
5 activity in a local human rights commission, or national origin.

6 ~~A-reprisal-includes, but-is-not-limited-to, any-form-of~~
7 ~~intimidation, retaliation, or harassment.~~ It is a reprisal for
8 an employer to do any of the following with respect to an
9 individual because that individual has engaged in the activities
10 listed in clause (1) or (2): refuse to hire the individual;
11 depart from any customary employment practice; transfer or
12 assign the individual to a lesser position in terms of wages,
13 hours, job classification, job security, or other employment
14 status; or inform another employer that the individual has
15 engaged in the activities listed in clause (1) or (2).

Article 1 CLARIFYING AMENDMENTS..... page 1
Article 2 OBSOLETE LANGUAGE AMENDMENTS..... page 16
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APPENDIX
Repealed Minnesota Statutes for 05-0276

363A.03 DEFINITIONS.

Subd. 3. Board. "Board" means the state Board of Human Rights.

Subd. 29. Party in interest. "Party in interest" means the complainant, respondent, commissioner or board member.