

**STATE OF MINNESOTA
Department of Commerce**

**In the Matter of the Proposed
Adoption and Amendment of Forms
Relating to Minnesota Uniform
Conveyancing Blanks Pursuant
to Minnesota Statutes Chapter 507**

**STATEMENT OF NEED
AND REASONABLENESS**

STATEMENT OF AUTHORITY

Commissioner of Commerce (Acting), Patrick L. Nelson ("Commissioner") presents herein the statement of the need for and reasonableness of the adoption of proposed forms relating to Minn. Stat. Chapter 507 (1992).

By Laws 1929, Chapter 135 (Minn. Stat. § 507.08) the Uniform Conveyancing Blanks Commission was authorized. The Uniform Conveyancing Blanks were "... approved and recommended for use in the state ..." by Laws 1931, Chapter 272, Section 1 (Minn. Stat. § 507.09).

Laws 1975, Chapter 61, Section 26 repealed Minn. Stat. § 507.08 (i.e. the Commission).

Laws 1975, Chapter 61, Section 2 authorized the Commissioner of Securities to appoint an advisory committee on uniform conveyancing forms to recommend to the Commissioner amended or new forms to be adopted by rule. The committee was appointed in 1976.

Laws 1983, Chapter 260, Section 62 (Minn. Stat. § 507.09) changed the advisory committee to a task force.

The authority to promulgate rules under Minn. Stat. Chapter 507 is set forth at Minn. Stat. § 507.09 (1987). Where specific statutory authority is relied upon, it will be so noted.

The Commissioner has determined that the proposed adoption of these forms is necessary to carry out and make effective the provisions and purposes of Minn. Stat. Chapter 507 (1992).

FACTS ESTABLISHING NEED AND REASONABLENESS

On February 22, 1993, the Department caused to be published at Volume 17, State Register, page 2045, a Notice of Solicitation of Outside Information or Opinion concerning changes in the uniform conveyancing blank forms. The need for and reasonableness of each of the proposed forms and amendments to existing forms is as follows.

Since 1976, the task force has amended or adopted conveyancing blanks to replace the blanks which have been unaltered for some time. The task force found that many forms were in need of revision, due to changes in the laws relating to the forms, changes in application and the plain language law. In addition, recent legislation has in some cases mandated the development of new forms.

The task force, since its renewal in 1976, has had the following objectives in the revision or creation of conveyancing blanks:

1. Whenever possible, a one-page form (including all recording data) should be used to reduce recording time and alleviate storage problems in the offices of the County Recorders.
2. The forms should be understandable to the general public.
3. The format should minimize the amount of additional typing necessary to complete the form and the probability of error by the person preparing the form.
4. The form should eliminate duplication of language and phrases rendered unnecessary by statute or case law.

Based on these objectives, the task force recommended to the Commissioner that the uniform conveyancing blanks be amended or adopted as presented in the proposed rule format.

The Commissioner believes that the proposed forms meet these objectives and that the rules should be adopted as proposed by the task force.

The following forms are submitted:

2820.2750 FORM 40.1-M: CERTIFICATE OF TRUST BY AN INDIVIDUAL. This is a new form proposed pursuant to Minn. Stat. § 501B.56 (1992), which allows for the transfer of real estate held in trust without recording lengthy or cumbersome trust instruments. This new form is needed because it will greatly simplify real estate closings and land transfers.

2820.2752 FORM 40.2-M: CERTIFICATE OF TRUST BY A CORPORATION. See comments to Form 401-M above.

2820.2754 FORM 40.3-M: AFFIDAVIT OF TRUSTEE. This is a new form proposed pursuant to Minn. Stat. §501B.57 (1992). This form is required in conjunction with Forms 40.1-M and 40.2-M, in order to establish the power of the trustee to sell, convey, pledge, mortgage, lease, or transfer title to any interest in real property held in trust.

2820.4005 FORM 51½-M: SATISFACTION OF MORTGAGE BY CORPORATION WITH CHANGE OF NAME OR IDENTITY. This is a new form proposed for use pursuant to Minn. Stat. §507.411 (1991), which allows for the recordation of a mortgage satisfaction including evidence of a change in the name or identity of the corporate mortgagee or assignee of the mortgagee.

2820.4025 FORM 53½-M: PARTIAL RELEASE OF MORTGAGE BY CORPORATION WITH CHANGE OF NAME OR IDENTITY. This is a new form proposed

pursuant to Minn. Stat. §507.411 (1991), to be used when a mortgage is partially released. See comments relating to Form 51½-M above.

2820.4050 FORM 64-M: NOTICE OF PENDENCY OF PROCEEDING AND POWER OF ATTORNEY TO FORECLOSE MORTGAGE BY AN INDIVIDUAL. Since the Notice of Pendency must now be filed both with the County Recorder and the Registrar of Title (Minn. Stat. §580.032, subd. 3), this form combines the Notice of Pendency with the Power of Attorney. The language and format of the form were also updated to comport with modern standards.

2820.4052 FORM 65-M: NOTICE OF PENDENCY OF PROCEEDING AND POWER OF ATTORNEY TO FORECLOSE MORTGAGE BY A CORPORATION OR PARTNERSHIP. See comments to Form 64-M above.

2820.4054 FORM 66-M: NOTICE OF MORTGAGE FORECLOSURES SALE. This form is a revision of the form currently in use. It has been updated to eliminate outdated language; language regarding assignment of mortgage has been added; and language now required by Minn. Stat. §582.032 has been added.

2820.4060 FORM 67-M: SHERIFF'S CERTIFICATE OF SALE AND FORECLOSURE RECORD. This form provides an entirely new and much more workable format for the Sheriff's Certificate of Sale and Foreclosure Record. The foreclosure record form previously used was a cumbersome multi-page form. The foreclosure record is now composed of multiple separate pages which can be referenced by and attached to Form 67-M.

2820.4061 FORM 67.1-M: NOTICE OF MORTGAGE FORECLOSURE AND AFFIDAVIT OF PUBLICATION. This new form was formerly included in Form 67-M. In addition to being severed from that form, it has been updated to eliminate outdated language and improve its format.

2820.4062 FORM 67.2-M: HOMESTEAD DESIGNATION NOTICE. This is a new form, the text of which is mandated by Minn. Stat. §582.041.

2820.4063 FORM 67.3-M: AFFIDAVITS OF SERVICE. This form was formerly included in Form 67-M. In addition to being severed from that form, it has been updated and its format improved to provide clear options for personal service, substituted service and vacancy.

2820.4064 FORM 67.4-M: AFFIDAVIT OF COSTS AND DISBURSEMENTS. This form was formerly included in Form 67-M. In addition to being severed from Form 67-M, it has been updated to eliminate outdated language and to improve its format.

2820.4065 FORM 67.5-M: AFFIDAVIT AS TO FEDERAL TAX LIEN(S). This is a new form proposed to satisfy the requirements of Internal Revenue Code §7425(C)(1) and §7425(b)(2)(C).

2820.4066 FORM 67.6-M: AFFIDAVIT AS TO STATE TAX LIEN(S). This is a new form, proposed in compliance with the requirements of Minn. Stat. §270.69, subd. 7.

2820.4067 FORM 67.7-M: AFFIDAVIT REGARDING MILITARY SERVICE. This form was originally included in Form 67-M. In addition to being severed from Form 67-M, it has been updated to better reflect statutory requirements, eliminate outdated language, and improve the format.

2820.4068 FORM 67.8-M: AFFIDAVIT OF MAILING NOTICE OF SALE TO PERSON(S) REQUESTING NOTICE. This is a new form proposed in compliance with the requirements of Minn. Stat. §§580.032, 582.032 and 582.32.

2820.4701 FORM 60-M: NOTICE OF CANCELLATION OF CONTRACT FOR DEED. This is an amended form which has been revised to eliminate reference to statutory sections which have been repealed (§583.01 to §583.12).

2820.4730 FORM 79-M: MECHANICS LIEN STATEMENT BY INDIVIDUAL. This is a form which will replace the form currently in use and is revised pursuant to the requirements of Minn. Stat. §514.08, subd. 2 (1992), requiring service of this statement personally or by certified mail.

2820.4732 FORM 79.1-M: AFFIDAVIT OF PERSONAL SERVICE OF MECHANICS LIEN STATEMENT. This form contains material formerly included in Form 79-M. It has been severed from that form for purposes of clarity and ease of use. In addition, language and format have been updated.

2820.4734 FORM 79.2-M: AFFIDAVIT OF SERVICE OF MECHANICS LIEN STATEMENTS BY CERTIFIED MAIL. This form contains material formerly included in Form 79-M. It has been severed from that form for purposes of clarity and ease of use. In addition the language and format has been updated.

2820.4740 FORM 80-M: MECHANICS LIEN STATEMENT BY CORPORATION OR PARTNERSHIP. See comments to Form 79-M above.

2820.4910 FORM 63-M: STATUTORY SHORT FORM POWER OF ATTORNEY. This is a new form proposed in compliance with the requirements of Minn. Stat. §523.23 (1992). This form is based on the statutory powers defined in Minn. Stat. §523.23 and is intended to replace the currently used form, which is based on the common law powers.

2820.5010 FORM 63½-M: AFFIDAVIT BY ATTORNEY IN FACT. This form is proposed in compliance with the requirements of Minn. Stat. §523.17, subd. 1, and contains the text prescribed by the statute.

2820.8001 FORM 121-M: REVOCATION OF POWER OF ATTORNEY. This form is offered as a revision of the Revocation of Power of Attorney form currently in use. It has been revised in compliance with the requirements of Minn. Stat. §523.11, subd. 2.

SMALL BUSINESS CONSIDERATIONS

This is made part of the Statement of Need and Reasonableness in compliance with Minn. Stat. §14.115, small business considerations in rulemaking.

The proposed rules are necessary to provide the public and members of the real estate bar association with general forms which may be recorded to evidence a conveyance of an interest in real property.

The rules will not have a direct impact on small businesses. Consequently, it will not be necessary for the Department of Commerce to implement any methods for reducing the impact of the rules on small businesses in Minnesota.

Dated: August 13, 1993



PATRICK L. NELSON
Commissioner of Commerce (Acting)
State of Minnesota
Department of Commerce
133 East Seventh Street
St. Paul, Minnesota 55101



OFFICE OF THE COMMISSIONER

STATE OF MINNESOTA

DEPARTMENT OF COMMERCE

133 EAST 7th STREET
ST. PAUL, MN 55101
612/296-4026
FAX: 612/296-4328

August 16, 1993

Legislative Commission to Review Administrative Rules
55 State Office Building
100 Constitution Avenue
St. Paul, MN 55155
ATTN: Michelle

Re: Proposed Adoption and Amendment of Forms Relating to Minnesota Uniform
Conveyancing Blanks Pursuant to Minnesota Statutes Chapter 507

Dear Michelle:

Pursuant to Minnesota Statutes Section §14.23 we enclose a copy of the Statement of
Need and Reasonableness for the above-referenced rules.

Should you have any questions about these rules, please call me at 297-1118.

Sincerely,

BERT J. McKASY
Commissioner of Commerce

By:

A handwritten signature in cursive script that reads "Donna M. Watz".

Donna M. Watz
Staff Attorney

DMW:joc