

1 A bill for an act
2 relating to real property; clarifying application of thirty year statute to conservation easements
3 and restrictions; amending Minnesota Statutes Section 500.20, subdivision 2a.

4 **ARTICLE 1**

5 **DEFEASIBLE ESTATES**

6 Section 1. Minnesota Statutes section 500.20, subdivision 2a, is amended to read:

7 Subd. 2a. **Restriction of duration of condition.** Except for any right to reenter or to
8 repossess as provided in subdivision 3, all private covenants, conditions, or restrictions created by
9 which the title or use of real property is affected, cease to be valid and operative 30 years after the
10 date of the deed, or other instrument, or the date of the probate of the will, creating them, and
11 may be disregarded.

12 This subdivision does not apply to covenants, conditions, or restrictions:

13 (1) that were created before August 1, 1959, under which a person who owns or has an
14 interest in real property against which the covenants, conditions, or restrictions have been filed
15 claims a benefit of the covenant, condition, or restriction if the person records in the office of
16 the county recorder or files in the office of the registrar of titles in the county in which the real
17 estate affected is located, on or before March 30, 1989, a notice sworn to by the claimant or the
18 claimant's agent or attorney: setting forth the name of the claimant; describing the real estate
19 affected; describing the deed, instrument, or will creating the covenant, condition, or restriction;
20 and stating that the covenant, condition, or restriction is not nominal and may not be disregarded
21 under subdivision 1;

22 (2) that are created by the declaration, bylaws, floor plans, or condominium plat of a
23 condominium created before August 1, 1980, under chapter 515, or created on or after August
24 1, 1980, under chapter 515A or 515B, or by any amendments of the declaration, bylaws, floor
25 plans, or condominium plat;

26 (3) that are created by the articles of incorporation, bylaws, or proprietary leases of a

1 cooperative association formed under chapter 308A;
2 (4) that are created by a declaration or other instrument that authorizes and empowers a
3 corporation of which the qualification for being a stockholder or member is ownership of certain
4 parcels of real estate, to hold title to common real estate for the benefit of the parcels;
5 (5) that are created by a deed, declaration, reservation, or other instrument by which one
6 or more portions of a building, set of connecting or adjacent buildings, or complex or project of
7 related buildings and structures share support, structural components, ingress and egress, or
8 utility access with another portion or portions;
9 (6) that were created after July 31, 1959, under which a person who owns or has an interest
10 in real estate against which covenants, conditions, or restrictions have been filed claims a benefit
11 of the covenants, conditions, or restrictions if the person records in the office of the county
12 recorder or files in the office of the registrar of titles in the county in which the real estate
13 affected is located during the period commencing on the 28th anniversary of the date of the
14 deed or instrument, or the date of the probate of the will, creating them and ending on the 30th
15 anniversary, a notice as described in clause (1); or
16 (7) that are created by a declaration or bylaws of a common interest community created
17 under or governed by chapter 515B, or by any amendments thereto; or
18 (8) that are created as conservation restrictions as defined under chapter 84 or as conservation
19 easements as defined under chapter 84C.

20 A notice filed in accordance with clause (1) or (6) delays application of this subdivision to
21 the covenants, conditions, or restrictions for a period ending on the later of seven years after the
22 date of filing of the notice, or until final judgment is entered in an action to determine the validity
23 of the covenants, conditions, or restrictions, provided in the case of an action the summons
24 and complaint must be served and a notice of lis pendens must be recorded in the office of the
25 county recorder or filed in the office of the registrar of titles in each county in which the real
26 estate affected is located within seven years after the date of recording or filing of the notice

1 under clause (1) or (6).

2 County recorders and registrars of titles shall accept for recording or filing a notice
3 conforming with this subdivision and charge a fee corresponding with the fee charged for filing a
4 notice of lis pendens of similar length. The notice may be discharged in the same manner as a
5 notice of lis pendens and when discharged, together with the information included with it, ceases
6 to constitute either actual or constructive notice.

7 Section 2. **EFFECTIVE DATE.**

8 This article is effective August 1, 2011, and applies to any conservations easements or
9 conservation restrictions created before, on or after its effective date which comply with chapter
10 84 or 84C.