

## 2005 REAL ESTATE LEGISLATIVE UPDATE<sup>1</sup>

**Kevin J. Dunlevy**  
Beisel & Dunlevy, P.A.  
282 US Trust Building  
730 Second Avenue South  
Minneapolis, MN 55402  
612-436-0020  
KevinD@bdmnlaw.com

**Charles A. Parsons**  
Moss and Barnett, P.A.  
4800 Wells Fargo Center  
90 South Seventh Street  
Minneapolis, MN 55402  
612-347-0276  
ParsonsC@moss-barnett.com

### *Chapter 4*

#### ***COUNTY RECORDER TECHNICAL CORRECTIONS***

**Statutes Affected:** Chapter 386, 507.24, chapters 508 and 580, and numerous miscellaneous statutes

**Sections 1 - 14:** Replace statutory references to “file,” “filed,” “filing” or “filing for record” with the county recorder and registrar of titles with “record,” “recorded” or “recording” with the county recorder and registrar of titles.

**Section 15 & 16:** Requires that auxiliary forest contracts be prepared on recordable forms. Requires the fee owner to pay for the recording of a certificate from the county attorney regarding the status of title when an auxiliary forest contract is recorded.

**Sections 17 - 65:** Replace statutory references to “file,” “filed,” “filing” or “filing for record” with the county recorder and registrar of titles with “record,” “recorded” or “recording” with the county recorder and registrar of titles.

**Section 66:** Requires the county commissioners to furnish county officers with all electronic technology necessary to discharge their duties, in addition to office equipment and supplies.

**Section 67:** Clarifies that when relocating US government survey monuments, surveyors should file a certified copy of their survey notes and records with a filed plat in the office of the county recorder or the county surveyor if the county surveyor has a building maintained by the county on a full-time basis.

**Sections 68 – 72:** Replace statutory references to “file,” “filed,” “filing” or “filing for record” with the county recorder and registrar of titles with “record,” “recorded” or “recording” with the county recorder and registrar of titles.

---

<sup>1</sup> This summary does not purport to cover all relevant chapters or sections. Please refer to the actual session laws for the exact terms and effective dates.

**Section 73:** Requires county recorders to combine the grantor's and grantee's reception books into one reception index.

**Section 74:** Authorizes county commissioners to combine the numerical register and reception indexes for use with electronic media.

**Section 75:** Requires county commissioners to keep tract indexes in book or electronic media in the office of the county recorder.

**Section 78:** Authorizes county recorders to keep alphabetical indexes of documents received for recording by either manual or electronic means.

**Section 80:** Authorizes county recorders to use record books or electronic media for recording military certificates of discharge.

**Section 81:** Authorizes county recorders to transcribe in appropriate records or electronic media all sheriff's certificates for sales of real estate in mortgage foreclosures, judgments and executions filed prior to May 10, 1862.

**Section 83:** Permits county recorders to use electronic media in addition to suitable books to fulfill their statutory duty to record at length all instruments received for recording.

**Sections 85 – 87:** Eliminate references to filing with the county recorder. Eliminate references to book and page numbers in the consecutive document number index. Eliminate the requirement that farm names be recorded in a special book for that purpose.

**Section 88:** Allows county recorders a reasonable time to produce abstract, rather than ten days, in counties in which the county recorders perform abstract services.

**Sections 89 – 119:** Replace statutory references to "file," "filed," "filing" or "filing for record" with the county recorder and registrar of titles with "record," "recorded" or "recording" with the county recorder and registrar of titles.

**Section 120:** Expands the requirements in section 507.24 to include that the instrument be legible and archivable, in addition to being executed and acknowledged as required by law.

**Section 121:** Amends section 508.35 to require either the certificate number or book and page number, rather than just the book and page number of the original certificate.

**Section 122:** Amends section 508.37 to require the registrar of titles to keep two reception *indexes* rather than reception *books*, one for grantors and one for grantees.

**Section 123:** Eliminates the requirement that the registrar of title's official signature be on the certificate of title, and allows just the registrar's official name. Amends the reference to certified copies fees from section 357.18 to 508.82.

**Sections 124 – 134:** Replace statutory references to “file,” “filed,” “filing” or “filing for record” with the county recorder and registrar of titles with “record,” “recorded” or “recording” with the county recorder and registrar of titles.

**Section 135:** Eliminates the reference in the section 559.209 Farmer – Lender Mediation Notice to Mediation Request Forms being available at the office of the county recorder in contract for deed cancellations, and directs the vendee to the county extension agent only for the forms.

**Section 136:** Clarifies that contract for deed cancellation documents recorded with the registrar of titles are *prima facie* evidence of the facts stated in the documents, as are cancellation documents recorded with the county recorder.

**Sections 138 – 143:** Replace statutory references to “file,” “filed,” “filing” or “filing for record” with the county recorder and registrar of titles with “record,” “recorded” or “recording” with the county recorder and registrar of titles.

**Sections 144 – 151:** Replace statutory references in chapter 580 to “file,” “filed,” “filing” or “filing for record” with the county recorder and registrar of titles with “record,” “recorded” or “recording” with the county recorder and registrar of titles.

**Section 152:** Clarifies that death certificates recorded with the registrar of titles are *prima facie* evidence of the death of a joint tenant, as are death certificates recorded with the county recorder.

**Section 153:** Repeals sections 386.183 regarding a \$1 certificate fee and \$0.40 per entry fee for county recorder abstracts, 386.34 regarding limits on deputy county recorder salaries; 386.53 regarding a \$2 fee limitation for recording of US Government surveys, maps and aerial photos, and official documents recorded by public officials; and 580.16 regarding marginal notes of a sheriff’s certificate next to a mortgage by the county recorder.

**Effective Date:** August 1, 2006

## ***Chapter 14***

### ***FOREIGN JUDGMENTS – LIFE SPAN AND INTEREST RATE***

**Statutes Affected:** 548.27, 548.46

**Section 1:** Allows a foreign judgment creditor or its attorney to file an affidavit with the court administrator attesting to the foreign state’s life span or interest rate, and requires the foreign judgment creditor or its attorney to file a subsequent affidavit whenever the interest rate or lifespan changes. Declares that absent the affidavit, Minnesota’s life span and interest rate apply to the foreign judgment.

**Section 2:** Requires that judgments and awards in foreign-money claims be docketed in U.S. dollars rather than in foreign money, although the judgment or award may be made in foreign currency amounts. Requires conversion of the foreign currency using a bank-offered spot rate.

**Effective Date:** August 1, 2005 (Originally August 1, 2005, but delayed to 2006 by laws 2005, chapter 159, article 1, section 14.)

*Chapter 64*

*DISABILITY PARKING*

**Statutes Affected:** 169.346

**Section 10:** Requires the property owner or manager to ensure that disability parking spaces and associated access isles are kept free of obstruction and properly posted for 24 hours after receiving a warning from a peace officer, or the property manager or owner is guilty of a misdemeanor and subject to a fine of up to \$500.

**Effective Date:** August 1, 2005

*Chapter 66*

*MINNESOTA FAIR PLAN OVER-INSURANCE EXEMPTION*

**Statute Affected:** 65A.08

**Section 1:** Exempts Minnesota Fair Plan hazard insurance from statutory requirement that the full policy limit must be paid when there is a total loss and that a partial loss be fully paid. However, in the case of a total loss, the portion of the policy premium attributable to the difference between the policy amount and the loss must be refunded to the insured.

**Effective Date:** May 24, 2005

*Chapter 67*

*ASSESSMENTS FOR EXCESS UTILITY IMPROVEMENTS*

**Statute Affected:** 429.021

**Section 1:** Allows municipal assessment of affected property owners for costs agreed to by the municipality with an electric utility, telecommunications carrier or cable system operator to bury or alter a distribution system within the public right-of-way that exceeds the utility's design and construction standards, or those set by law, tariff or franchise, upon petition by the property owners.

**Effective Date:** August 1, 2005

## *Chapter 69*

### *CORPORATIONS*

**Statutes Affected:** Chapters 47, 48, 300, 302A, sections 507.327 and 507.328

#### **Article 1**

**Section 1 – 6:** Amend sections in chapter 47 to apply certain provisions of chapter 302A to financial corporations organized under the laws of Minnesota. Permit three or more persons to form a financial corporation by application to the Department of Commerce. Require that a certificate of authority be issued by the commissioner of commerce upon approval by the commissioner of the application and receipt by the commissioner of commerce of a certificate of incorporation. Require that the certificate of authority be filed for record with the secretary of state. Allow amendment and restatement of articles of incorporation and corporate name changes.

**Sections 7 – 13:** Amend and clarify sections in chapters 48 and 49 regarding capital stock, shareholder lists, transfers of stock, preemptive rights, capital accounts, shareholder rights, boards of directors and officers of state banks.

**Sections 14 – 15:** Amend sections in chapter 50 regarding boards of directors and officers of state savings banks.

**Section 16:** Provides that the articles of incorporation of a chapter 302A corporation includes the certificate of incorporation of a chapter 300 corporation.

**Section 17:** Declares that all chapter 300 corporations are governed by chapter 302A as of August 1, 2006, as though they had been incorporated under chapter 302A.

**Section 18:** Deletes statutory references to chapter 300.

**Section 19:** Grants perpetual duration to all corporations formed under chapter 300 and now governed by chapter 302A, regardless of the duration stated in the certificate of incorporation.

**Section 20:** Declares that references in corporate documents to sections 300.64 and 300.83 are deemed to be references to sections 302A.251 and 302A.521 respectively.

**Section 21:** Instructs the revisor to renumber certain specific sections from chapter 300, including renumbering sections 300.114 and 300.115 regarding recording of mortgages granted by public utility and pipeline companies to 507.327 and 507.328 respectively.

#### **Article 2**

**Sections 1 – 18:** Amend the governing law for insurance corporations in chapters 60A through 66A, and eliminate statutory references to chapter 300.

### **Article 3**

**Sections 1 – 26:** Make conforming changes and eliminate statutory references to chapter 300.

### **Article 4**

**Section 1:** Repeals specific sections in chapter 300 not otherwise renumbered.

**Section 2:** Declares the act effective August 1, 2006.

**Effective Date:** August 1, 2006

### ***Chapter 72***

#### ***SNOWMOBILES ON HIGHWAY RIGHTS-OF-WAY***

**Statutes Affected:** Section 84.87

**Section 1:** Empowers local road authorities to permit two-way snowmobile operation on the street and highway rights-of-way under the road authorities jurisdiction. Requires posting of two-way snowmobile trails at the authorized locations.

**Effective Date:** August 1, 2005

### ***Chapter 78***

#### ***STATE CONSTRUCTION CONTRACTS***

**Statutes Affected:** Chapters 16B, 16C

**Section 1 – 7:** Authorize the commissioner of administration to use design-build, construction manager at-risk, and job order contracting methods for state construction contracts, subject to specific conditions. Authorizes the University of Minnesota to enter design-build contracts.

**Effective Date:** May 25, 2005

### ***Chapter 79***

#### ***FARM LABOR MANUFACTURED HOMES EXEMPTION***

**Statutes Affected:** 327.23

**Section 1:** Exempts from manufactured home park regulations up to four manufactured homes: (1) maintained on a premises associated with a seasonal agricultural operation, (2) in an area zoned agricultural and (3) used exclusively to house individuals or families performing labor as defined in section 3121(g) of the Internal Revenue Code. The exempt manufactured homes must

meet certain indoor plumbing, water and sanitation requirements and provide at least 80 square feet of indoor living space per occupant. In addition, shelter and evacuation plans must be provided for severe weather conditions such as tornados, high winds and floods, with approval of the city or township and conspicuous posting near the homes. Finally, the homes must be maintained in a clean, orderly and sanitary condition.

**Effective Date:** May 25, 2005

### *Chapter 83*

#### *PUBLIC SAFETY*

**Statute Affected:** 624.714

**Section 9:** Allows the operator of an establishment to verbally inform a person with a permit to carry a firearm that guns are prohibited in the premises as an alternative to posting the premises.

**Effective Date:** May 25, 2005

### *Chapter 91*

#### *CONSERVATORS*

**Statutes Affected:** 524.5-417, 524.5-423

**Sections 1 & 2:** Gives the court discretion to allow a transfer of the beneficial interest to the conservator, as long as the conservator proves the transaction is primarily in the best interest of the protected person.

**Effective Date:** July 1, 2005

### *Chapter 99*

#### *CERTIFICATES OF US GOVERNMENT SURVEY*

**Statutes Affected:** 160.15, 381.12, 389.03

**Section 1:** Requires land surveyors to file a certificate with the county surveyor regarding placement and establishment of US government survey markers or monuments within one year of placement. In counties without a full-time office of the county surveyor, the land surveyor must record the certificate with the county recorder.

This section is effective August 1, 2005 and applies to US government survey markers and monuments placed and established on or after August 1, 2005.

**Section 2:** Requires licensed surveyors employed by a county board to preserve, protect and mark section, quarter section and meander corners to file a certified copy of full and accurate notes and records from which the entire survey can be relocated, along with a plat, in the office of the county surveyor. If the county surveyor does not have an office in a building maintained full-time by the county for county purposes, the surveyor must record the survey notes and records, and plat, with the county recorder.

This section is effective August 1, 2005 and applies to corners preserved, restored and marked on or after August 1, 2005.

**Section 3:** Requires land surveyors to file or record a certificate in the same manner as Section 2, within one year of perpetuating or restoring certain U.S. public land survey corners.

This section is effective August 1, 2005 and applies to corners perpetuated or restored on or after August 1, 2005.

**Section 4:** Requires a county to record with the county recorder all certificates of location corners that were filed with the county surveyor, if the county closes an office of the county surveyor that the county maintained in a building maintained by the county for county purposes on a full-time basis.

This section is effective August 1, 2005.

### *Chapter 100*

#### *COMMERCE DEPARTMENT LICENSING*

**Statutes Affected:** 82.31, chapter 82B

**Section 7:** Allows an applicant for a real estate salesperson's license to retake the licensing examination without retaking prelicense education, if the applicant failed to obtain a license within one year of previously passing the examination.

**Sections 8 – 17:** Revise real property appraiser license application, education, experience and examination requirements.

**Effective Date:** August 1, 2005

### *Chapter 101*

#### *STATE AND COUNTY FOREST PRESCRIPTIVE EASEMENT MAPS*

**Statutes Affected:** 89.715, 282.041

**Section 1:** Authorizes the department of natural resources ("DNR") to adopt and record state forest road maps to record the department's prescriptive easements. Describes the graphical

detail requirements of the maps, including a list of legal descriptions of all parcels crossed by state forest road prescriptive easements.

Prescribes procedures for adoption of the maps by DNR, including a notice that the roads to be recorded will be to the width of actual use including ditches, backslopes, fill and maintained rights-of-way, unless otherwise specified in a prior easement of record. Requires two successive weeks of published notice before a public hearing, with the second publication made at least 10 days before the public hearing. Requires at least 30-days notice of the hearing by certified mail to property owners directly affected as determined by DNR at the addresses listed on the tax assessment notices, at least 7 days before the first publication of the notice. Allows the notice to be sent with the tax assessment. Allows DNR to amend and adopt the map. The map must be dated and signed by the commissioner of natural resources, and recorded with the county recorder within 90 days after the map is adopted. Requires that the map comply with the standards of the county recorder where the state forest roads are located. Declares that a recorded map prepared using aerial photographs to establish road centerlines is an adequate description for purposes of recording road easement and that the map is the legally constituted description and prevails when a deed for a parcel abutting a road contains no reference to a road easement. Allows DNR to accept a more definitive metes and bounds survey description of a road easement if the legal description is referenced to equal distance on both sides of the existing road centerline. Requires DNR to consult with county land commissioners, county auditors, county recorders and Torrens examiners in implementing public hearings and map recordings.

Allows appeal to the district court regarding DNR's decision to include or exclude a road in a map with 120 days of DNR's adoption of a map. Allows a person to seek resolution of a concern regarding a decision to record a road by contacting DNR in writing.

Declares that the legal status or the state's obligations regarding roads and trails not shown on recorded maps are not affected or altered by this section. Declares that adoption of a map under this section is exempt from rulemaking requirements under chapter 14.

**Section 2:** Defines a "county forest road" as a road constructed, acquired, maintained or administered by the county for the purpose of public access and management of tax-forfeited lands that have been classified as conservation lands under this chapter. Authorizes a county board to adopt and record county forest road prescriptive easement maps using the same procedures as DNR under section 1 above. Declares that the legal status or the county's obligations regarding roads and trails not shown on recorded maps are not affected or altered by this section.

**Effective Date:** August 1, 2005

### *Chapter 103*

#### ***WATERSHED DISTRICT MANAGER'S COMPENSATION***

**Statute Affected:** 103D.315

**Section 1:** Increases maximum daily compensation from \$55 to \$75.

**Effective Date:** August 1, 2005

### *Chapter 105*

## **SHOOTING RANGES**

**Statutes Affected:** Chapter 87A

**Sections 1 & 2:** Require the commissioner of natural resources to promulgate shooting range performance standards, and define terms.

**Section 3:** Authorizes a shooting range in compliance with the shooting range performance standards to conduct certain described activities within the boundaries of the shooting range. Allows local zoning jurisdictions to extend shooting range hours of operation beyond 7 am and 10 pm. Allows shooting ranges that are nonconforming uses to continue operation, provided the shooting range remains in compliance with noise and shooting range performance standards. Declares that new or remodeled buildings on shooting ranges must comply with fire safety, handicapped accessibility, elevator safety, bleacher safety, or other provisions of the State Building Code that have mandatory statewide application.

**Section 4:** Prohibits certain changes in use, new development, or construction of a structure for any portion of a shooting range within 750 feet of the perimeter property lines. Permits certain changes in use, new development, or construction of a structure of a shooting range if mitigation is provided or is not required.

**Section 5:** Sets noise level standards for shooting ranges.

**Section 6:** Exempts shooting ranges in compliance with shooting range performance standards from nuisance actions for damages or equitable relief based on noise or other matters regulated by the shooting range performance standards. Declares that other actions are not prohibited.

**Section 7:** Prohibits forced closure or cessation of an activity of a shooting range operating within performance standards unless the range or activity is found to be a clear and immediate safety hazard by a court. Declares a rebuttable presumption that any shooting range operating within performance standards is not a clear and immediate safety hazard. Prohibits closure or cessation of an activity of a shooting range proven to be a safety hazard, if the operator shows the hazard can be mitigated. However, if the range operator fails to implement the mitigation by the date determined reasonable by the court, the range can be ordered closed or the activity order ceased. Allows a court to grant a preliminary injunction against any probable clear and immediate safety hazard, pending final determination of the existence of the safety hazard. Allows court to grant a permanent injunction against a particular activity at a shooting range instead of permanently closing the range.

**Section 8:** Declares that a local zoning authority may enforce its applicable ordinances and permits, to the extent consistent with Minnesota Statutes chapter 87A. Declares that chapter 87A does not supersede more restrictive regulation of days and hours of operation under ordinances and permits in effect on the effective date of this section. Prohibits permanent closure of a shooting range not in compliance with state law, local ordinance or permit, if the operator shows evidence that the range can be brought into compliance and the operator fails to bring the range into compliance by the date the court determines reasonable. Allows a court to grant a preliminary injunction against any activity in violation of law, ordinance or permit under this section pending final determination of the existence of the violation. Allows court to grant a permanent injunction against a particular activity at a shooting range instead of permanently closing the range for a violation under this section.

**Effective Date:** May 28, 2005

### *Chapter 117*

#### ***ROAD VACATION ADJACENT TO PUBLIC WATERS***

**Statutes Affected:** 164.07, 412.851, 505.14

**Section 1:** Requires petitioners asking a township board to vacate a township road to notify the DNR of the petition at least 60 days, rather than 30 days, before the hearing, if the road to be vacated terminates at, abuts upon or is adjacent to any public waters. Requires the township board or its designee to consult with the DNR regarding the proposed vacation. Requires the DNR to consider the public benefits of the proposed vacation, the use of the land for access to public waters, and the impact of the vacation on the conservation of public resources. The DNR must advise the township board accordingly upon evaluation.

**Section 2:** Requires written notice to the DNR by certified mail at least 60 days, rather than 30 days, before a city council hearing on a street, alley, public grounds or public way if the property to be vacated terminates at, abuts upon or is adjacent to any public waters. Requires the city council or its designee to consult with the DNR regarding the proposed vacation. Requires the DNR to consider the public benefits of the proposed vacation, the use of the land for access to public waters, and the impact of the vacation on the conservation of public resources. The DNR must advise the city council accordingly upon evaluation.

**Section 3:** Requires written notice of the petition to the DNR by certified mail at least 60 days, rather than 30 days, before the judicial hearing if the property owner desires to vacate a plat by petition and if any part of a street, alley or public grounds to be vacated terminates at, abuts upon or is adjacent to any public waters. Declares that the notice to the DNR creates a right of intervention by the DNR

**Effective Date:** August 1, 2005

### *Chapter 118*

## ***FINANCIAL INSTITUTIONS***

**Statutes Affected:** 58.125, 58.16, 82.17, 82.41

**Section 8:** Prohibits service or employment of a residential mortgage originator who was convicted of a criminal offense involving dishonesty or a breach of trust or money laundering, or who has agreed to a pretrial diversion or similar program in connection with such an offense. Allows the Commerce Department to consent in writing to service or employment of a residential mortgage originator with such an offense after the Commerce Department considers the nature and circumstances of the offense, evidence of rehabilitation, the age of the person at the time of the conviction, and whether restitution has been made. Allows automatic approval without application for *de minimis* offenses, if there is only one conviction, punishment was by imprisonment for less than one year and/or a fine of less than \$1,000, no jail time was served, the conviction was at least five years before the application, and the offense did not involve a financial institution or residential mortgage loans.

**Section 9:** Requires that advance fees for a residential mortgage originator be deposited in a trust account controlled by an unaffiliated accountant, attorney or bank.

**Section 12:** Defines “advance fees” for a loan broker as a commission, fee, charge or compensation paid before closing for a loan, that is intended as payment for finding or attempting to find a loan for a borrower, but does not include pass-through fees or commitment or extended lock fees, or other fees determined by the Commerce Department.

**Section 13:** Excludes a multifamily seller/servicer approved by the Federal Home Loan Mortgage Corporation and multifamily partners approved by the Federal National Mortgage Association from real estate broker licensing requirements.

**Section 14:** Requires loan broker trust accounts to be controlled by an unaffiliated accountant, lawyer or bank.

**Section 15:** Corrects statutory reference in definitions of fraudulent, deceptive and dishonest practices for purposes of real estate broker’s and salesperson’s licenses.

**Effective Dates:** Section 8 is effective January 1, 2006. All other sections effective August 1, 2006.

## ***Chapter 119***

### ***REAL PROPERTY***

**Statutes Affected:** 500.20, 513.56, 513.57, 559.217, 580.041

**Section 1:** Eliminates window period for elimination of private covenants, conditions or restrictions under the 30-year statute for those created by deed or instrument dated on or after

August 1, 1982 or by will when the date of death was on or after August 1, 1982 and before August 1, 1988

**Section 2:** Confirms the exemption from seller disclosure requirements to “information relating to the property” if the information is disclosed in a property inspection report, rather than “information relating to the physical condition of the property.”

**Section 3:** Clarifies that cancellation of a purchase agreement with right to cure is effective 15 days after service of the cancellation on the other party to the purchase agreement (as opposed to the escrow holder), unless the default is cured or the cancellation is suspended by court order. Declares that the cancellation with right to cure notice must be given notwithstanding any provision in the purchase agreement to the contrary.

**Section 4:** Clarifies that declaratory cancellation of a purchase agreement can be made only after an unfulfilled condition, and not a default in the purchase agreement. Clarifies that a declaratory cancellation is complete 15 days after service of the notice upon the other party to the purchase agreement (as opposed to the escrow holder), unless the cancellation is suspended by a court.

**Section 5:** Eliminates the permissive use of large legible handwriting in the form of purchase agreement cancellation notice. Amends the cancellation notice with right to cure to state that the party to the purchase agreement must also complete unfulfilled conditions specified in the notice, in addition to curing defaults specified in the notice, to prevent cancellation. Amends the cancellation notice with right to cure and with declaratory cancellation to state that if the party served with the cancellation notice serves its own cancellation notice, the purchase agreement will be immediately cancelled, but that the entitlement to the earnest money must be determined by the court or arbitration if agreed to by the parties. Gives buyer or seller served with a cancellation notice the discretion to commence litigation to suspend the cancellation, and gives the court discretion to award up to \$3,000 in attorney fees to the prevailing party. Clarifies that a third party holding the earnest money may deliver the earnest money to the party initiating and completing a cancellation, after the third party receives the affidavit of cancellation.

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

**Section 5:** Clarifies that the foreclosure advice notice required by section 580.041 applies only property consisting of one to four family dwelling units, one of which is occupied by the owner as the owner’s principal residence on the date of service of the mortgage foreclosure notice on the owner.

**Section 6:** Allows for an affidavit by a person with knowledge stating that the foreclosure redemption notice was delivered in compliance with section 580.041, or that the notice was not required. Declares that the affidavit and a certified copy of the affidavit are *prima facie* evidence of the facts stated in the affidavit. Allows recording of the affidavit for any foreclosure sale, including sales occurring before the effective date of the section, either as a separate document or as part of the foreclosure record.

**Section 7:** Declares that foreclosure sales are not invalidated for failure to comply with the redemption notice requirements of section 580.041, unless an action to set aside the foreclosure is commenced and a notice of *lis pendens* recorded within one year after the last day of the mortgagor's redemption period. Provides a savings provision for actions challenging a foreclosure for failure to comply with section 580.041, if the action is pending on August 1, 2005 or is commenced before February 1, 2006, and if a *lis pendens* is recorded on or before February 1, 2006.

**Effective Date:** Effective August 1, 2005, unless otherwise stated above.

## *Chapter 121*

### *COMMON INTEREST COMMUNITIES*

**Statutes Affected:** Chapter 515B

**Section 1:** Adds section 515B.2-119 regarding the termination of CICs to the list of sections that automatically apply to condominiums formed under chapter 515. Reduces the exemption from MCIOA for planned communities from 12 units to two units. Limits exemption from MCIOA for nonresidential planned communities and cooperatives to ones using a chapter 505 plat rather than a CIC plat.

**Section 2:** Declares that real estate which satisfies the definition of a CIC is a CIC whether or not it is subject to chapter 515B. Clarifies that a developer may combine units and that a tenant under a proprietary lease is a unit owner. Makes technical and harmonizing changes to other definitions.

**Section 3:** Clarifies that certain cities' regulatory authority over conversions of buildings to CICs applies only to residential property.

**Section 4:** Clarifies that in eminent domain proceedings seeking to acquire part of the common area, jurisdiction may be acquired by service of process on the association.

**Section 5:** Instructs county recorders and registrars of title not to enter the declaration on the tract index on lands described in the declaration as additional real estate, unless the lands are added to the CIC under section 515B.2-111. Declares that the same recording fees applicable to CICs are also applicable to parcels subject to a master declaration.

**Section 6:** Declares that the engineer or architect's certificate as to substantial completion also applies to a planned community using a CIC plat. Includes incorporation of the association and recording of the CIC plat with other CIC creation requirements.

**Section 7:** Permits a planned community to use a CIC plat, and defines the unit boundaries. Declares that in a planned community using a CIC plat, the unit boundaries are the lot lines designated under the plat recorded under chapter 505, unless otherwise specified in the declaration.

**Section 8:** Clarifies that rights acquired under a master declaration are appurtenant to the units.

**Section 9:** Requires a statement in the declaration as to whether the CIC includes any shoreland, and if so, that the CIC may be subject to local ordinances or rules regarding the shoreland.

**Section 10:** Requires the declarant to make a good faith estimate of the maximum number of units that may be created in a flexible CIC in the declaration. Clarifies that the developer need not have an interest in additional real estate to identify the land as additional real estate in the declaration and that the identification of additional land in the declaration does not encumber or otherwise affect the title to that real estate.

**Section 11:** Clarifies that votes need not be allocated to garage units or storage units. Clarifies that the formula used to reallocate allocated interest after an addition of new units are the formulas stated in the declaration.

**Section 12:** Clarifies that the CIC plat is part of the declaration in certain planned communities. Adds references to supplemental CIC plats under 515B.2-111. Clarifies what must be shown on a CIC plat for cooperatives in which the unit owner's interests are considered real estate. Eliminates the requirement to show in a CIC plat the easements serving the land in the plat. Clarifies the developers' rights to combine units in a CIC. Clarifies that a CIC plat for a condominium or real estate interest cooperative are not subject to chapter 505.

**Section 13:** Clarifies procedures for expansion of flexible CICs.

**Section 14:** Clarifies procedures for subdivision, combination or conversion of units. Clarifies interests of secured creditors in units being combined or subdivided.

**Section 15:** Grammatical changes to requirements for alteration of units.

**Section 16:** Clarifies procedures and terminology for amendments of declarations. Declares that if common areas are converted into units, title to the units vests in the association free of any interest of unit owners.

**Section 17:** Clarifies the surviving legal descriptions after termination of a CIC. Clarifies expense allocation in termination of a CIC.

**Section 18:** Clarifies powers, authorities and procedures for master associations, including turn over of control to the master association, and powers of sub-associations. Clarifies allocation of master association common expenses. Allows a limited exemption for any person or unit from master association assessments.

**Section 19:** Clarifies approval standards for a change in form of CIC.

**Section 20:** Clarifies procedures and authorities for severance from a CIC.

**Section 21:** Makes grammatical changes regarding organization of the unit owners' association.

**Section 22:** Expands the types of easements an association may grant without the unit owners' approval to include public utilities, public rights-of-way or other public easements, including cable TV or other communications easements.

**Section 23:** Clarifies timing and procedures for the end of the developer's control and beginning of the association's control.

**Section 24:** Clarifies the procedures and powers of an association to terminate contracts entered by the developer prior to turn over of control to the association. Requires that notice of termination be given by the association within two years of turn over of control. Clarifies mortgage and contract for deed provisions that are subject to termination. Exempts certain governmental agreements, such as tax increment financing agreements, development agreements, and mandated drainage and utility easements from termination.

**Section 25:** Makes grammatical changes to the bylaws requirements.

**Section 26:** Declares that an association may not deny the right to vote to unit members in a dispute with the association or unit members delinquent on their assessments.

**Section 27:** Clarifies creation of security interests in common areas. Declares that certain easements, leases and licenses are not subject to section 515B.3-112.

**Section 28:** Clarifies the board of directors' authority over excess insurance proceeds following restoration of damaged or destroyed improvements.

**Section 29:** Clarifies the exemption from reserve fund regulations for non-residential CICs.

**Section 30:** Clarifies the developer's obligations regarding assessments and reserve funds. Limits the ability of the association to "back assess" units to three years.

**Section 31:** Clarifies that the master association's lien is superior to an association's lien. Clarifies the association's right to bring eviction actions following a cooperative unit assessment lien foreclosure.

**Section 32:** Makes grammatical changes to section 515B.3-117 regarding other liens.

**Section 33:** Clarifies the types of contracts the developer or master association must give to the association upon turn over of control.

**Section 34:** Requires notice in a purchase agreement for sale to the initial occupant of real estate subject to a master association, intended for residential occupancy and which is not intended to be a unit to give disclosure that: (1) the property is or will be subject to a master unit and (2) the master association must provide disclosures pursuant to Minnesota Statutes section 515B.4-102(c). Limits buyer's claims for failure to give the notice to legal, rather than equitable,

remedies. Bars buyer's claims if not brought within six months of the date of closing. Allows the buyer and seller to waive the notice by a separate written document.

**Section 35:** Requires disclosure to buyers of any blanket mortgage, contract for deed or other security instrument encumbering a cooperative. Requires disclosure to buyers of master association assessments, certain agreements between the developer and governmental entities, and budgets for other expenses the association intends to fund by special assessment.

**Section 36:** Clarifies requirements for architect and engineer opinion for conversions of existing buildings to CICs.

**Section 37:** Clarifies a first buyer's right to cancel a purchase if the disclosure statement was given to the buyer less than ten days before execution of the purchase agreement. Allows a separate written waiver or modification of the ten-day rescission period. Prohibits the seller from conditioning the sale of a unit on the buyer's waiver of the ten-day rescission period. Prohibits the seller from including a waiver or modification of the ten-day rescission period in a purchase agreement. Requires a waiver or modification to be a separate instrument from the purchase agreement, and be signed by the buyer more than three days after the buyer signs the purchase agreement. Provides for a similar right to cancel a purchase agreement, and to waive or modify the ten-day rescission period for amendments to the disclosure statement.

**Section 38:** Makes grammatical changes to resale disclosure requirements.

**Section 39:** Clarifies a buyer's right to cancel a purchase agreement for a resale, with similar procedures and requirements for the ten-day rescission period, and for waivers and modifications as with a first buyer

**Section 40:** Allows buyer's escrow deposits to be held by a government agency or instrumentality.

**Section 41:** Makes grammatical changes to section 515B.4-111 regarding conversion property.

**Section 42:** Declares a statute of limitations of six months after the conveyance for failure to disclose regarding master associations under section 34. Declares that an agreement reducing certain CIC periods of limitation to be binding on the purchaser's successors and assigns.

**Effective Date:** August 1, 2005

### *Chapter 136*

#### ***PUBLIC SAFTEY OMNIBUS BILL METHAMPHETAMINE LAB SITES RECORDING FEES***

**Statutes Affected:** 152.0275, Chapters 357, 507 and 508

## Article 7

**Section 9:** Defines “clandestine lab site” as any structure, conveyance or outdoor location occupied or affected by conditions or chemicals typically associated with the manufacturing of methamphetamine.

Defines “remediation” as the proper cleanup, treatment or containment of hazardous substances or methamphetamine at or in a clandestine lab site, and may include demolition or disposal of structures or other property when an assessment so indicates.

Defines “removal” as the removal from the clandestine lab site of precursor or waste chemicals, chemical containers or equipment associated with the manufacture, packaging or storage of illegal drugs.

Defines “property” as publicly or privately owned real property including buildings and other structures, motor vehicles, public waters and public rights-of-way.

Requires a peace officer who arrests a person at a clandestine lab site to notify the appropriate county or local health department, the state duty officer and child protection services of the arrest and the location of the site. Requires the county or local health department or sheriff to order that any portion of the property that was a clandestine lab site and contaminated through the manufacture of methamphetamine be prohibited from being occupied or used until it has been assessed and remediated. Provides rules and procedures for remediation. Requires the remediation contractor to verify to the property owner and the applicable authority that the remediation has been completed according to the Department of Health’s guidelines and best practices. Verification must be given within five days of completion of the remediation. Provides for an action by the property owner against the contractor for false verification of remediation, including attorney fees for the property owner. Provides a six-year statute of limitations from the date the false verification was issued by the contractor.

Requires the applicable authority issuing an order prohibiting occupation or use to record with the county recorder or registrar of titles of the county where the clandestine lab is located, an affidavit containing the name of the owner, a legal description of the property where the clandestine lab was located and a map drawn from available resources showing the boundary of the property and the location of the contaminated area on the property that is prohibited from being used or occupied. The affidavit must disclose to any potential transferees: (1) that the property or a portion of the property was the site of a clandestine lab; (2) the location, condition and circumstances of the clandestine lab to the full extent known or reasonably ascertainable; and (3) that the use of the property or some portion of it may be restricted.

Requires the applicable authority to file a supplemental affidavit with a corrected drawing or description if the filed drawing or description is inaccurate, upon request by the property owner. Requires the applicable authority to file an affidavit that the order prohibiting use or occupation has been vacated, if the applicable authority vacates the order. Declares that upon filing of the affidavit vacating the order, the affidavit vacating the order, the affidavit regarding the order

prohibiting use and occupation, and the information in the affidavits cease to be either actual or constructive notice.

Permits an interested party to record an affidavit that proper removal and remediation has occurred on the property.

Declares that upon filing of an affidavit of removal and remediation by an interested party, the affidavit of order prohibiting use and occupation and the affidavit of removal and remediation cease to be either actual or constructive notice. Declares that failure to record an affidavit of removal and remediation does not affect or prevent any transfer of ownership of the property.

Requires the county recorder or registrar of titles to record all affidavits recorded under this section in a manner that assures their disclosure in the ordinary course of a title search of the subject property. Requires each local community health administrator to maintain information related to property within the administrator's jurisdiction that is or was subject to an order prohibiting use or occupation. The information must include the name of the owner, the location of the property, the extent of the contamination, the status of the removal and remediation, and whether the order was vacated. Requires the administrator to make this information available to the public.

Requires the seller or transferor to disclose in writing to the buyer or transferee before signing an agreement to sell or transfer real property if, *to the seller's or transferor's knowledge*, methamphetamine production has occurred on the property. If methamphetamine production has occurred on the property, the disclosure must include a statement to the buyer or transferee: (1) whether an order prohibiting use or occupancy has been issued on the property; (2) whether any orders prohibiting use or occupancy have been vacated; (3) if no order has been issued and the seller or transferor is aware of methamphetamine production on the property, the status of removal and remediation on the property.

Declares that if the seller or transferor fails to disclose, to the best of their knowledge, at the time of the sale any of the required facts, and who knew or had reason to know of methamphetamine production on the property, is liable to the buyer or transferee for: (1) costs of remediation to the Department of Health's guidelines and best practices; (2) reasonable attorney fees. Permits the seller or transferor and buyer or transferee to agree in writing prior to the closing to waive the buyer's or transferee's remedies against the seller or transferor for failure to disclose.

Declares that this section preempts all local ordinances related to the sale or transfer of real property designated as a clandestine lab site.

**Effective Date:** January 1, 2006 and applies to crimes committed on or after that date.

## Article 14

**Section 6, subd. 1:** Increases recording fees charged by the county recorder to a maximum fee of \$46. Requires that \$10.50 of the recording fee be paid to the state treasury and credited to the general fund. Requires \$10 of the recording fee be deposited into a technology fund for

obtaining, maintaining and updating current technology and equipment to provide services from the record system. Requires that \$25.50 of the recording fee be deposited into the county general fund.

Requires a \$40 filing fee for documents containing multiple assignments, partial releases or satisfactions. (This fee should have been \$46, and the amount of the fee is expected to be corrected in a Revisor's Bill during the special session.) If the document cites more than four recorded instruments, requires an additional \$10 fee for each additional instrument cited over the first four citations.

Requires a \$10 fee for certified copies of any records or papers.

Requires a per-page fee determined by the county board for non-certified photocopies of documents.

Increases county recorder abstracting fees from \$5 to \$10 per entry, from \$50 to \$100 for an abstract certificate, and from \$2 to \$5 per-name search on the abstract certificate.

Increases the fee for a copy of a plat from \$9.50 to \$10, and from \$.50 to \$5 for certification of the plat.

Increases the filing fee for an amended floor plan under chapter 515 or an amended condominium plat under chapter 515A from \$30 to \$50.

Requires a \$56 fee for recording a plat, with the extra \$10 recording fee required to be deposited in the county general fund.

Requires the county recorder to mark a copy or duplicate original submitted for recording with the original document, with the word "copy" or "duplicate" and show the recording date, and if available, the document number assigned to the original, for \$2.

**Subd. 2:** Declares that the fees established in subdivision 1 of this section are the fees to be charged in all counties for the specified service.

**Subd. 4:** Establishes a technology fund to be disbursed at the discretion of the county recorder. Declares that the technology fund is a supplemental fund and shall not be construed to diminish the duty of the county governing body to furnish funding for expenses and personnel necessary in the performance of the duties of the county recorder under section 386.015, subdivision 6, paragraph (a), clause (2) and section 357.182

**Subd. 5:** Declares that a document that varies from the standards in section 507.093, paragraph (a) should not be rejected unless the document is not legible and cannot be archived. Eliminates the \$10 non-standard document fee.

**Subd 6:** Cross-references the fees charged by the county recorder to the fees charged by the registrar of titles in sections 508.82 and 508A.82.

**Effective Date for the preceding section:** July 1, 2005

**Section 7, subd 1:** Declares that documents presented for recording within 60 days of July 1, 2005 that are acknowledged, sworn to or certified before July 1, 2005 must not be rejected for failure to include the new filing fee. Declares that fee restrictions in 357.182 apply to each county in Minnesota effective August 1, 2005.

**Subd. 2:** Prohibits counties from charging or collecting any fee, special or otherwise, however described, other than a fee denominated or prescribed by state law, for any service, task or step performed by any county officer or employee in connection with the receipt, recording and return of any recordable instrument by the county recorder or registrar of titles, whether received by mail, in person or by electronic delivery, including, but not limited to: (1) opening mail; (2) handling, transferring, or transporting the instrument; (3) certifying no delinquent property tax or conservation fee; (4) recording of approved plats, subdivision splits or combinations; or any other prerequisites to recording, and returning the instrument by regular mail or in person to the person identified in the instrument for that purpose.

**Subd. 3:** Requires each county recorder and registrar of titles to record and index any instrument presented in recordable form accompanied by the proper recording fee within 15 business days of receipt, and to return the instrument by mail or in person to the person identified in the instrument for that purpose, if the instrument does not require certification of no-delinquent taxes or payment of state deed tax, mortgage registry tax or conservation fee. Permits counties to establish policies for timely handling of documents that require certification of no-delinquent taxes or payment of state deed tax, mortgage registry tax or conservation fee of up to an additional five business days at the request of the office or offices responsible to complete the payment or certification process.

Declares that for calendar years 2009 and 2010 the maximum time for completion of the recording process for documents presented in recordable form is 15 business days.

Declares that for calendar years 2011 and thereafter the maximum time for completion of the recording process for documents presented in recordable form is ten business days.

**Subd 4:** Declares that a county recorder is in compliance with recording timeliness requirements in subdivision 3 if at least 60 percent of all recordable instruments received by the county in 2007 are recorded and returned within the time limits in subdivision 3. Requires that in calendar year 2008, at least 70 percent of all recordable instruments must be recorded and returned within the time limits in subdivision 3. Requires that in calendar year 2009, at least 80 percent of all recordable instruments must be recorded and returned within the time limits in subdivision 3. Declares that in calendar year 2010 and later years, at least 90 percent of all recordable instruments must be recorded and returned within the time limits in subdivision 3.

**Subd. 5:** Permits a suspension of up to six months with compliance with the recording timeliness requirements of subdivision 4, if the county undertakes material enhancements of its systems for receipt, handling, payment of deed and mortgage registry taxes and conservation fees, recording,

indexing, certification and return of instruments. Permits an additional six-month suspension if the county board finds by resolution that the additional time is necessary due to difficulties in implementation of the enhancement.

**Subd. 6:** Requires county recorders and registrars of title to file with the county commissioners, as part of their budget request, a report of their compliance with the recording timeliness requirements of subdivision 3 in the previous year, beginning in 2007 for the 2008 county budget and in each year thereafter. If the county recorder or registrar of titles has not achieved compliance with the recording requirements, the report must include an explanation of the failure to comply, recommendations to cure the noncompliance and to prevent a reoccurrence, and a proposal identifying actions, deadlines and funding necessary to bring the county into compliance.

**Subd. 7:** Requires counties to segregate the additional unallocated fee authorized by sections 357.18, 508.82 and 508A.82 in an appropriate account, for county budgets adopted after January 1, 2006. Declares that this money is available as authorized by the county commissioners for enhancements to the recording process, including electronic recording, compliance efforts specified in subdivision 5, and for data integration and aggregation projects. Declares that money should remain in the segregated account until expended for any of the purposes authorized in this subdivision. Declares that this money cannot be used to supplant the normal operating expenses of the county recorder or registrar of titles.

**Effective Date for this section:** July 1, 2005

**Section 8:** Deletes fees for copies of plats in section 505.08 and cross references to recording fees in section 357.18.

**Effective Date for this section:** July 1, 2005

**Section 9:** Requires that recording fees charged by the registrar of titles shall not exceed \$46 for issuing a first certificate of title. Requires that \$10.50 of the fee be paid to the state treasury and credited to the general fund. Requires that \$10 of the fee be deposited into the technology fund. Requires that \$25.50 of the fee be deposited in the county general fund.

Requires a \$46 recording fee for recording an instrument that results in issuance of a new certificate of title (so a deed recorded with the county recorder or the registrar of titles will generally have the same fee) or entry of a memorial on an existing certificate, with \$12 paid to the state general fund, \$10 paid to the technology fund and \$24 paid to the county general fund. Requires an additional fee of \$20 per entry for multiple certificate entries, with the extra \$20 fees paid to the county general fund.

Requires payment of a \$40 fee for issuance of a residue certificate.

Requires payment for exchange certificates of \$20 for each certificate cancelled and \$20 for each new certificate issued.

Increases the fee for a certified condition of register from \$10 to \$50.

Requires a \$10 fee for a certified copy of any instrument recorded in the office of the registrar of titles.

Requires the registrar of titles to mark a copy or duplicate original submitted for recording with the original document with the word “copy” or “duplicate” and show the recording date, and if available, the document number assigned to the original, for \$2.

Increases the fee for filing two copies of any plat from \$30 to \$56, with \$12 paid to the state general fund, \$10 paid to the technology fund and \$34 paid to the county general fund.

Increases the recording fee for a declaration under chapter 515 from \$10 to \$46, with an additional fee for multiple certificate entries of \$20 fee for each certificate entry thereafter. Requires a \$56 recording fee for an amended floor plan under chapter 515. Requires payment of \$12 of the recording fee to the state general fund and payment of \$10 to the technology fund. Requires payment of \$24 of the fee for recording an amended declaration to the county general fund. Requires payment of the \$20 fee for multiple entries and \$34 of the recording fee for amended floor plans, to the county general fund.

Increases the recording fee for an amendment to a common interest community declaration and plat from \$10 to \$46, plus \$20 per entry for multiple-certificate entries. Requires a \$56 recording fee for common interest community plats. Requires distribution of the recording fees as with recording fees for chapter 515 documents.

Increases the fee for recording certified copies of plats from \$10 to \$46, with distribution of the fee as with regular recording fees.

Increases the fee for recording certified copies of registered land surveys from \$30 to \$46, with distribution of the fee as with regular recording fees.

Increases the fee for certified copies of registered land surveys from \$10 to \$15.

**Subd. 1a:** Declares that the fees established in subdivision 1 shall be the recording fees charged in all counties for the specified service, other than UCC documents and certain documents filed by the state of Minnesota.

**Subd. 2:** Declares that documents should conform to the standards in section 507.093, but should not be rejected for recording unless the document is not legible or cannot be archived. Eliminates the \$10 recording surcharge for non-standard documents.

**Effective Date for this section:** July 1, 2005

**Sections 10 – 11:** Make conforming changes to chapter 508A.

**Effective Date:** July 1, 2005

*Chapter 138*

***PUBLIC WATERS***

**Statutes Affected:** 103G.245

**Section 3:** Clarifies definitions to eliminate confusion between motorboats and boathouses. Restricts boathouses on public waters to a permitted commercial marina.

**Section 4:** Allows a DNR order relating to activities that affect public waters of the state to be recorded as a “deed restriction on the property that runs with the land and is binding on the owners, successors, and assigns until the conditions of the order are met or the order is rescinded.”

**Effective Date:** August 1, 2005

*Chapter 148*

***RECREATIONAL LAND***

**Statute Affected:** 604A.21

**Section 1:** Defines rock climbing and cave exploring for civil actions related to liability on land used for recreational purposes.

**Effective Date:** Effective August 1, 2005, and applies to causes of action arising on or after that date.

*Chapter 151*

***DEPARTMENT OF REVENUE TECHNICAL CORRECTIONS***

**Statutes Affected:** Chapter 270C

**Article 1**

Recodifies existing chapters regarding taxation into chapter 270C, including property tax laws and state tax lien laws.

Provisions for notice to the department of revenue regarding state tax lien recording, procedures, priority, sale and notices in mortgage foreclosure and contract for deed cancellation are recodified into section 270C.63 from 270.69 with no substantive changes.

**Article 2**

Makes confirming amendments to cross references to the statutes recodified in Article 1.

### **Article 3**

**Section 11:** Extends agricultural homestead classification to property that is actively farmed by the grandchild of the owner or the owner's spouse.

**Section 12:** Reclassifies certain privately owned non-commercial aircraft hangars to class 4c.

**Section 13:** Allows DOR to pay electronically filed property tax refunds up to 30 days earlier.

This section is effective June 3, 2005.

### **Article 4**

**Section 2:** Modifies computation of the homestead market value tax credit for properties that are part homestead and part non-homestead, when one of the owners or spouses does not claim the property as a homestead.

### **Article 5**

**Section 1:** Requires payment of current year personal property taxes before title can be transferred on a manufactured home.

**Section 31:** Clarifies that county auditors, treasurers, attorneys, court administrators and assessors, or someone acting on their behalf, cannot purchase tax-forfeited land in the county in which they are employed.

**Section 33:** Clarifies taxation of tax-forfeited forested land upon sale.

**Section 34:** Provides that the commissioner of natural resources issues deeds for tax-forfeited land in conservation areas, rather than the commissioner of finance.

### **Article 8**

**Section 1:** Exempts mortgages on armories from mortgage registry taxes.

### **Article 9**

**Section 13:** Allows transcription of state tax liens from a county to the secretary of state.

## ***Chapter 152***

### ***PUBLIC FINANCE AND TAX INCREMENT FINANCING***

**Statutes Affected:** Miscellaneous

## **Article 1**

Makes changes to the authority of municipalities to incur debt, primarily bonding debt.

## **Article 2**

Makes technical and minor policy changes to tax increment financing law.

**Effective Date:** Various effective dates.

## *Chapter 156*

### ***OMNIBUS STATE GOVERNMENT FINANCE***

**Statutes Affected:** 507.093, 507.094, 507.24 and miscellaneous others

## **Article 2**

**Section 40:** Exempts documents recorded as part of a pilot electronic recording project by the newly created Electronic Real Estate Recording Task Force. Authorizes counties that participated in the electronic recording pilot project under the former EREER Task Force to continue to electronically record documents if they meet the recording standards set by the former EREER Task Force. Authorizes new counties to participate in the pilot project under the former EREER Task Force if they meet the recording standards set by the former EREER Task Force and if the new Task Force accepts a certificate of compliance from the county board and county recorder.

This section effective June 4, 2005

**Section 41:** Creates the new EREER Task Force consisting of 17 members, including the secretary of state as chair; four county government officials appointed by the Association of County Officers, including two county recorders, an auditor and a treasurer; two county board members appointed by the Association of Minnesota Counties, including one from the metro area and one from outside the metro area; seven members from the private sector including real estate attorneys, real estate agents, mortgage companies, other real estate lenders, technical and industry experts in electronic commerce, a non-voting representative of the Minnesota Historical Society, and two representatives of title companies. Authorizes the task force to refer matters to subcommittees, including members not on the task force.

Directs the task force to study and make recommendations regarding the implementation of electronic recording. Directs the task force to consider technology and computer needs; legal issues related to authenticity, security, timing, and priority of recordings; a timetable and plan for implementation of electronic recording; permissive versus mandatory systems; and other relevant issues identified by the task force. Directs the task force to review the Uniform Electronic Recording Act and recommend alternative structures for the permanent Commission on Electronic Real Estate Recording Standards. Authorizes the task force to establish standards for

electronic recording of residential real estate deeds and mortgages, and to establish pilot projects to complete the testings and functions of the former EREER Task Force. Requires the task force to report to the legislature by January 15 of each year.

Authorizes donations to the task force, including shared employees.

Sunsets the task force June 30, 2008.

This section is effective July 1, 2005.

**Section 42:** Extends exemption from requirement for original signatures on real estate documents to documents recorded as part of a pilot project by the new EREER Task Force. Authorizes counties that participated in the electronic recording pilot project under the former EREER Task Force to continue to electronically record documents if they meet the recording standards set by the former EREER Task Force. Authorizes new counties to participate in the pilot project under the former EREER Task Force if they meet the recording standards set by the former EREER Task Force and if the new Task Force accepts a certificate of compliance from the county board and county recorder.

This section effective June 4, 2005.

### *Chapter 159*

#### *CHILD PROTECTION AND WELFARE*

**Statute Affected:** 548.27, 548.46

#### **Article 1**

**Section 14:** Delays effective date of laws 2005, chapter 14 regarding Foreign Judgments until August 1, 2006.

### *Chapter 168*

#### *RESIDENTIAL PROPERTY SIGNS AND FLAGS*

**Statutes Affected:** 500.215, 515.07, 515B.2-103, 515B.3-102

**Section 1:** Declares that any provision of any deed restriction, subdivision regulation, restrictive covenant, local ordinance, contract, rental agreement or regulation, or homeowners association document that limits the right of an owner or tenant of residential property to display the US flag or Minnesota Flag is void and unenforceable. Defines homeowners association document to include the declaration, articles of incorporation, bylaws, and rules and regulations of a CIC and a residential community that is not a CIC. Permits narrowly tailored limitations to protect health and safety. Allows limitations on: (1) the size of the flag to the size customarily used on residential property, (2) installation and display of the flag to a portion of the property to which

the displaying person has exclusive use, or (3) illumination of the flag. Allows requirements that the flag be displayed in a legal manner under Minnesota law, in good condition, not defaced or altered, and not affixed in a manner that causes more than inconsequential damages to a neighbor's property. Declares that a person who causes damage is liable for the repair costs.

Declares the section applies to all limitations, whether adopted before, on or after the effective state of this section.

Allows recovery of attorney fees and expenses to an owner or tenant denied rights provided by this section, and who prevails in an enforcement action. Allows recovery of attorney fees and expenses for the party enforcing limitations, if a flag is installed or displayed in violation of enforceable restrictions or limitations, and if the enforcing party prevails in the action.

**Section 2:** Declares that chapter 515 is subject to section 1 above.

**Section 3:** Requires a CIC declaration and bylaws to comply with section 1 above.

**Section 4:** Requires a CIC unit owners' association to comply with section 1 above.