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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE No. 2552

May 21, 2007

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The bill was read for the first time and referred to the Energy Finance and Policy Division

1.1 A bill for an act
1.2 relating to solar energy; prohibiting a homeowners association from restricting
1.3 the installation and operation of a solar energy system; amending Minnesota
1.4 Statutes 2006, sections 515.11; 515.19, subdivision 1; 515A.3-102; 515B.3-102.

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

1.6 Section 1. Minnesota Statutes 2006, section 515.11, is amended to read:

1.7 **515.11 CONTENTS OF DECLARATION.**

1.8 The declaration shall contain the following particulars:

1.9 (1) Description of the land on which the building and improvements are or are
1.10 to be located.

1.11 (2) Description of the building, stating the number of stories and basements, the
1.12 number of apartments and the principal materials of which it is or is to be constructed.

1.13 (3) The apartment number of each apartment, and a statement of its location,
1.14 approximate area, number of rooms, and immediate common area to which it has access,
1.15 and any other data necessary for its proper identification.

1.16 (4) Description of the common areas and facilities.

1.17 (5) Description of the limited common areas and facilities, if any, stating to which
1.18 apartments their use is reserved.

1.19 (6) Value of the property and of each apartment, and the percentage of undivided
1.20 interest in the common areas and facilities appertaining to each apartment and its owner
1.21 for all purposes, including voting.

1.22 (7) Statement of the purposes for which the building and each of the apartments
1.23 are intended and restricted as to use, except that the declaration may not prohibit or
1.24 have the effect of prohibiting the installation and efficient operation of a solar energy

2.1 system, as defined in section 216C.06, subdivision 17, that meets all applicable health and
2.2 safety regulations and is certified by the Solar Rating Certification Corporation or other
2.3 nationally recognized certification agency.

2.4 (8) The name of a person to receive service of process in the cases hereinafter
2.5 provided, together with the residence or place of business of such person which shall be
2.6 within the city or county in which the building is located.

2.7 (9) Provision as to the percentage of votes by the apartment owners which shall be
2.8 determinative of whether to rebuild, repair, restore, or sell the property in the event of
2.9 damage or destruction of all or part of the property.

2.10 (10) Any further details in connection with the property which the person executing
2.11 the declaration may deem desirable to set forth consistent with sections 515.01 to 515.29.

2.12 (11) The method by which the declaration may be amended, consistent with the
2.13 provisions of sections 515.01 to 515.29.

2.14 Sec. 2. Minnesota Statutes 2006, section 515.19, subdivision 1, is amended to read:

2.15 Subdivision 1. **What may be included.** The bylaws may provide for the following:

2.16 (a) The election from among the apartment owners of a board of directors, the
2.17 number of persons constituting the same, and that the terms of at least one-third of the
2.18 directors shall expire annually; the powers and duties of the board; the compensation, if
2.19 any, of the directors; the method of removal from office of directors; and whether or not
2.20 the board may engage the services of a manager or managing agent.

2.21 (b) Method of calling meetings of the apartment owners; what percentage, if other
2.22 than a majority of apartment owners, shall constitute a quorum.

2.23 (c) Election of a president from among the board of directors who shall preside over
2.24 the meetings of the board of directors and of the association of apartment owners.

2.25 (d) Election of a secretary who shall keep the minute book wherein resolutions
2.26 shall be recorded.

2.27 (e) Election of a treasurer who shall keep the financial records and books of account.

2.28 (f) Maintenance, repair and replacement of the common areas and facilities and
2.29 payments therefor, including the method of approving payment vouchers.

2.30 (g) Manner of collecting from the apartment owners their share of the common
2.31 expenses.

2.32 (h) Designation and removal of personnel necessary for the maintenance, repair and
2.33 replacement of the common areas and facilities.

2.34 (i) Method of adopting and of amending administrative rules and rules governing the
2.35 details of the operation and use of the common areas and facilities.

3.1 (j) Such restrictions on and requirements respecting the use and maintenance of the
3.2 apartments and the use of the common areas and facilities, not set forth in the declaration,
3.3 as are designed to prevent unreasonable interference with the use of their respective
3.4 apartments and of the common areas and facilities by the several apartment owners,
3.5 excluding restrictions that prohibit or have the effect of prohibiting the installation and
3.6 efficient operation of a solar energy system, as defined in section 216C.06, subdivision 17,
3.7 that meets all applicable health and safety regulations and is certified by the Solar Rating
3.8 Certification Corporation or other nationally recognized certification agency.

3.9 (k) The percentage of votes required to amend the bylaws.

3.10 (l) Other provisions as may be deemed necessary for the administration of the
3.11 property consistent with sections 515.01 to 515.29.

3.12 Sec. 3. Minnesota Statutes 2006, section 515A.3-102, is amended to read:

3.13 **515A.3-102 POWERS OF UNIT OWNERS' ASSOCIATION.**

3.14 (a) Unless limited by the provisions of the declaration, the association may:

3.15 (1) adopt and amend rules and regulations;

3.16 (2) adopt and amend budgets for revenues, expenditures, and reserves and collect
3.17 assessments for common expenses from unit owners;

3.18 (3) hire and terminate managing agents and other employees, agents, and
3.19 independent contractors;

3.20 (4) institute, defend, or intervene in litigation or administrative proceedings in
3.21 its own name on behalf of itself or two or more unit owners on matters affecting the
3.22 condominium;

3.23 (5) regulate the use, maintenance, repair, replacement and modification of common
3.24 elements;

3.25 (6) cause improvements to be made as a part of the common elements;

3.26 (7) grant leases, licenses, and concessions not to exceed one year and utility
3.27 easements through or over the common elements; provided, however, that after
3.28 conveyance to owners other than the declarant or affiliate of a declarant of units to which
3.29 more than 50 percent of the voting power is allocated, the association may by resolution of
3.30 a meeting of the members duly called grant leases, licenses, and concessions in excess of
3.31 one year and easements through or over the common elements;

3.32 (8) impose and receive any payments, fees, or charges for the use, rental, or
3.33 operation of the common elements other than limited common elements described in
3.34 section 515A.2-102(2) and (4);

4.1 (9) impose reasonable charges including reasonable costs and attorneys' fees, for
 4.2 the evaluation, preparation and recordation of amendments to the declaration, resale
 4.3 certificates required by section 515A.4-107, or statements of unpaid assessments;

4.4 (10) provide for the indemnification of its officers and board and maintain directors'
 4.5 and officers' liability insurance;

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

4.9 (12) exercise any other powers conferred by state law, the declaration, or bylaws.

4.10 (b) Notwithstanding subsection (a), the declaration may not impose limitations on
 4.11 the power of the association to deal with the declarant that are more restrictive than the
 4.12 limitations imposed on the power of the association to deal with other persons.

4.13 (c) Notwithstanding subsection (a), the declaration, bylaws, and the unit owners'
 4.14 association may not impose restrictions that prohibit or have the effect of prohibiting the
 4.15 installation and efficient operation of a solar energy system, as defined in section 216C.06,
 4.16 subdivision 17, that meets all applicable health and safety regulations and is certified by the
 4.17 Solar Rating Certification Corporation or other nationally recognized certification agency.

4.18 Sec. 4. Minnesota Statutes 2006, section 515B.3-102, is amended to read:

4.19 **515B.3-102 POWERS OF UNIT OWNERS' ASSOCIATION.**

4.20 (a) Except as provided in subsections (b) ~~and~~ (c), and (d), and subject to the
 4.21 provisions of the declaration or bylaws, the association shall have the power to:

4.22 (1) adopt, amend and revoke rules and regulations not inconsistent with the articles
 4.23 of incorporation, bylaws and declaration, as follows: (i) regulating the use of the common
 4.24 elements; (ii) regulating the use of the units, and conduct of unit occupants, which may
 4.25 jeopardize the health, safety or welfare of other occupants, which involves noise or
 4.26 other disturbing activity, or which may damage the common elements or other units;
 4.27 (iii) regulating or prohibiting animals; (iv) regulating changes in the appearance of the
 4.28 common elements and conduct which may damage the common interest community;
 4.29 (v) regulating the exterior appearance of the common interest community, including,
 4.30 for example, balconies and patios, window treatments, and signs and other displays,
 4.31 regardless of whether inside a unit; (vi) implementing the articles of incorporation,
 4.32 declaration and bylaws, and exercising the powers granted by this section; and (vii)
 4.33 otherwise facilitating the operation of the common interest community;

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

5.1 (3) hire and discharge managing agents and other employees, agents, and
5.2 independent contractors;

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

5.7 (5) make contracts and incur liabilities;

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

5.10 (7) cause improvements to be made as a part of the common elements, and, in the
5.11 case of a cooperative, the units;

5.12 (8) acquire, hold, encumber, and convey in its own name any right, title, or interest
5.13 to real estate or personal property, but (i) common elements in a condominium or planned
5.14 community may be conveyed or subjected to a security interest only pursuant to section
5.15 515B.3-112, or (ii) part of a cooperative may be conveyed, or all or part of a cooperative
5.16 may be subjected to a security interest, only pursuant to section 515B.3-112;

5.17 (9) grant easements for public utilities, public rights-of-way or other public
5.18 purposes, and cable television or other communications, through, over or under the
5.19 common elements; grant easements, leases, or licenses to unit owners for purposes
5.20 authorized by the declaration; and, subject to approval by resolution of unit owners other
5.21 than declarant or its affiliates, grant other easements, leases, and licenses through, over
5.22 or under the common elements;

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

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

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

5.32 (13) provide for the indemnification of its officers and directors, and maintain
5.33 directors' and officers' liability insurance;

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

6.1 (15) exercise any other powers conferred by law, or by the declaration, articles
6.2 of incorporation or bylaws; and

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

6.5 (b) Notwithstanding subsection (a) the declaration or bylaws may not impose
6.6 limitations on the power of the association to deal with the declarant which are more
6.7 restrictive than the limitations imposed on the power of the association to deal with other
6.8 persons.

6.9 (c) Notwithstanding subsection (a), powers exercised under this section must comply
6.10 with section 500.215.

6.11 (d) Notwithstanding subsection (a), the declaration, bylaws, and the unit owners'
6.12 association shall not impose restrictions that prohibit or have the effect of prohibiting the
6.13 installation and efficient operation of a solar energy system, as defined in section 216C.06,
6.14 subdivision 17, that meets all applicable health and safety regulations and is certified by the
6.15 Solar Rating Certification Corporation or other nationally recognized certification agency.