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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

EIGHTY-FIFTH  
SESSION

**HOUSE FILE No. 3134**

February 18, 2008

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The bill was read for the first time and referred to the Committee on Commerce and Labor

1.1 A bill for an act

1.2 relating to real property; providing for conveyance of interests in real property by

1.3 transfer on death deeds; clarifying acknowledgments made in a representative

1.4 capacity; clarifying application of certain common law doctrine to registered

1.5 land; eliminating obsolete language and making other technical and conforming

1.6 changes; amending Minnesota Statutes 2006, sections 272.12; 287.22; 508.02;

1.7 508.48; 508.52; 508.671, subdivision 1; 508A.02, subdivision 1; 508A.48;

1.8 508A.52; 524.2-702; 557.02; Minnesota Statutes 2007 Supplement, section

1.9 507.24, subdivision 2; proposing coding for new law in Minnesota Statutes,

1.10 chapter 507.

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

1.12 style="text-align: center;">**ARTICLE 1**

1.13 style="text-align: center;">**TRANSFER ON DEATH DEEDS**

1.14 Section 1. Minnesota Statutes 2006, section 272.12, is amended to read:

1.15 style="padding-left: 40px;">**272.12 CONVEYANCES, TAXES PAID BEFORE RECORDING.**

1.16 When:

- 1.17 (a) a deed or other instrument conveying land,
- 1.18 (b) a plat of any town site or addition thereto,
- 1.19 (c) a survey required pursuant to section 508.47,
- 1.20 (d) a condominium plat subject to chapter 515 or 515A or a declaration that contains
- 1.21 such a plat, or
- 1.22 (e) a common interest community plat subject to chapter 515B or a declaration
- 1.23 that contains such a plat,

1.24 is presented to the county auditor for transfer, the auditor shall ascertain from the records

1.25 if there be taxes delinquent upon the land described therein, or if it has been sold for

1.26 taxes. An assignment of a sheriff's or referee's certificate of sale, when the certificate of

2.1 sale describes real estate, and certificates of redemption from mortgage or lien foreclosure  
2.2 sales, when the certificate of redemption encompasses real estate and is issued to a junior  
2.3 creditor, are considered instruments conveying land for the purposes of this section and  
2.4 section 272.121. If there are taxes delinquent, the auditor shall certify to the same; and  
2.5 upon payment of such taxes, or in case no taxes are delinquent, shall transfer the land upon  
2.6 the books of the auditor's office, and note upon the instrument, over official signature, the  
2.7 words, "no delinquent taxes and transfer entered," or, if the land described has been sold  
2.8 or assigned to an actual purchaser for taxes, the words "paid by sale of land described  
2.9 within;" and, unless such statement is made upon such instrument, the county recorder or  
2.10 the registrar of titles shall refuse to receive or record the same; provided, that sheriff's or  
2.11 referees' certificates of sale on execution or foreclosure of a lien or mortgage, certificates  
2.12 of redemption from mortgage or lien foreclosure sales issued to the redeeming mortgagor  
2.13 or lienee, deeds of distribution made by a personal representative in probate proceedings,  
2.14 transfer on death deeds under section 507.071, decrees and judgments, receivers receipts,  
2.15 patents, and copies of town or statutory city plats, in case the original plat filed in the  
2.16 office of the county recorder has been lost or destroyed, and the instruments releasing,  
2.17 removing and discharging reversionary and forfeiture provisions affecting title to land  
2.18 and instruments releasing, removing or discharging easement rights in land or building or  
2.19 other restrictions, may be recorded without such certificate; and, provided that instruments  
2.20 conveying land and, as appurtenant thereto an easement over adjacent tract or tracts of  
2.21 land, may be recorded without such certificate as to the land covered by such easement;  
2.22 and provided further, that any instrument granting an easement made in favor of any  
2.23 public utility or pipe line for conveying gas, liquids or solids in suspension, in the nature  
2.24 of a right-of-way over, along, across or under a tract of land may be recorded without such  
2.25 certificate as to the land covered by such easement. Documents governing homeowners  
2.26 associations of condominiums, townhouses, common interest ownership communities,  
2.27 and other planned unit developments may be recorded without the auditor's certificate to  
2.28 the extent provided in section 515B.1-116(f).

2.29 A deed of distribution made by a personal representative in a probate proceeding,  
2.30 a decree, or a judgment that conveys land shall be presented to the county auditor, who  
2.31 shall transfer the land upon the books of the auditor's office and note upon the instrument,  
2.32 over official signature, the words, "transfer entered", and the instrument may then be  
2.33 recorded. A decree or judgment that affects title to land but does not convey land may be  
2.34 recorded without presentation to the auditor.

2.35 A violation of this section by the county recorder or the registrar of titles shall  
2.36 be a gross misdemeanor, and, in addition to the punishment therefor, the recorder or

3.1 registrar shall be liable to the grantee of any instrument so recorded for the amount of  
3.2 any damages sustained.

3.3 When, as a condition to permitting the recording of deed or other instrument  
3.4 affecting the title to real estate previously forfeited to the state under the provisions of  
3.5 sections 281.16 to 281.25, county officials, after such real estate has been purchased or  
3.6 repurchased, have required the payment of taxes erroneously assumed to have accrued  
3.7 against such real estate after forfeiture and before the date of purchase or repurchase, the  
3.8 sum required to be so paid shall be refunded to the persons entitled thereto out of moneys  
3.9 in the funds in which the sum so paid was placed. Delinquent taxes are those taxes deemed  
3.10 delinquent under section 279.02.

3.11 Sec. 2. Minnesota Statutes 2006, section 287.22, is amended to read:

3.12 **287.22 EXEMPTIONS.**

3.13 The tax imposed by section 287.21 does not apply to:

3.14 (1) An executory contract for the sale of real property under which the purchaser is  
3.15 entitled to or does take possession of the real property, or any assignment or cancellation  
3.16 of the contract;

3.17 (2) A mortgage or an amendment, assignment, extension, partial release, or  
3.18 satisfaction of a mortgage;

3.19 (3) A will;

3.20 (4) A plat;

3.21 (5) A lease, amendment of lease, assignment of lease, or memorandum of lease;

3.22 (6) A deed, instrument, or writing in which the United States or any agency or  
3.23 instrumentality thereof is the grantor, assignor, transferor, conveyer, grantee, or assignee;

3.24 (7) A deed for a cemetery lot or lots;

3.25 (8) A deed of distribution by a personal representative;

3.26 (9) A deed to or from a co-owner partitioning their undivided interest in the same  
3.27 piece of real property;

3.28 (10) A deed or other instrument of conveyance issued pursuant to a permanent  
3.29 school fund land exchange under section 92.121 and related laws;

3.30 (11) A referee's or sheriff's certificate of sale in a mortgage or lien foreclosure sale;

3.31 (12) A referee's, sheriff's, or certificate holder's certificate of redemption from a  
3.32 mortgage or lien foreclosure sale issued to the redeeming mortgagor or lienee;

3.33 (13) A deed, instrument, or writing which grants, creates, modifies, or terminates an  
3.34 easement; ~~and~~

4.1 (14) A decree of marriage dissolution, as defined in section 287.01, subdivision 4,  
4.2 or a deed or other instrument between the parties to the dissolution made pursuant to the  
4.3 terms of the decree; and

4.4 (15) A transfer on death deed under section 507.071.

4.5 **Sec. 3. [507.071] TRANSFER ON DEATH DEEDS.**

4.6 Subdivision 1. **Definitions.** For the purposes of this section the following terms  
4.7 have the meanings given:

4.8 (a) "Beneficiary" or "grantee beneficiary" means a person or entity named as a  
4.9 grantee beneficiary in a transfer on death deed, including a successor grantee beneficiary.

4.10 (b) "County agency" means the county department or office designated to recover  
4.11 medical assistance benefits from the estates of decedents.

4.12 (c) "Grantor owner" means an owner named as a grantor in a transfer on death deed  
4.13 upon whose death the conveyance or transfer of the described real property is conditioned.  
4.14 Grantor owner does not include a spouse who joins in a transfer on death deed solely for  
4.15 the purpose of conveying or releasing statutory or other marital interest in the real  
4.16 property to be conveyed or transferred by the transfer on death deed.

4.17 (d) "Owner" means a person having an ownership or other interest in all or part  
4.18 of the real property to be conveyed or transferred by a transfer on death deed. Owner  
4.19 does not include a spouse who joins in a transfer on death deed solely for the purpose  
4.20 of conveying or releasing statutory or other marital interests in the real property to be  
4.21 conveyed or transferred by the transfer on death deed.

4.22 (e) "Recorded" means recorded in the office of the county recorder or registrar of  
4.23 titles, as appropriate for the real property described in the instrument to be recorded.

4.24 (f) "State agency" means the Department of Human Services or any successor  
4.25 agency.

4.26 (g) "Transfer on death deed" means a deed authorized under this section.

4.27 Subd. 2. **Effect of transfer on death deed.** A deed that conveys or assigns an  
4.28 interest in real property, including a mortgage, judgment, or any other lien on real property,  
4.29 to a grantee beneficiary and that expressly states that the deed is only effective on the  
4.30 death of one or more of the grantor owners, transfer the interest to the grantee beneficiary  
4.31 upon the death of the grantor owner upon whose death the conveyance or transfer is stated  
4.32 to be effective, but subject to the survivorship provisions and requirements of section  
4.33 524.2-702. A transfer on death deed must comply with all provisions of Minnesota law  
4.34 applicable to deeds of real property including, but not limited to, the provisions of sections  
4.35 507.02, 507.24, 507.34, 508.48, and 508A.48.

5.1            Subd. 3. **Rights of creditors and rights of the state and county under sections**  
5.2 **246.53, 256B.15, 256D.16, 261.04, and 514.981.** The interest transferred to a beneficiary  
5.3 under a transfer on death deed after the death of a grantor owner is transferred subject  
5.4 to all effective conveyances, assignments, contracts, mortgages, deeds of trust, liens,  
5.5 security pledges, judgments, tax liens, and other encumbrances made by the grantor owner  
5.6 or to which the property was subject during the grantor owner's lifetime, including but  
5.7 not limited to, any claim by a surviving spouse or any claim or lien by the state or county  
5.8 agency authorized by section 246.53, 256B.15, 256D.16, 261.04, or 514.981, if other  
5.9 assets of the deceased owner's estate are insufficient to pay the amount of any such claim.  
5.10 A beneficiary to whom the interest is transferred after the death of a grantor owner shall be  
5.11 liable to account to the state or county agency with a claim or lien authorized by section  
5.12 246.53, 256B.15, 256D.16, 261.04, or 514.981, to the extent necessary to discharge  
5.13 any such claim remaining unpaid after application of the assets of the deceased grantor  
5.14 owner's estate, but such liability shall be limited to the value of the interest transferred  
5.15 to the beneficiary.

5.16           Subd. 4. **Multiple grantee beneficiaries.** A transfer on death deed may designate  
5.17 multiple grantee beneficiaries to take title as joint tenants, as tenants in common or in any  
5.18 other form of ownership or tenancy that is valid under the laws of this state.

5.19           Subd. 5. **Successor grantee beneficiaries.** A transfer on death deed may designate  
5.20 one or more successor grantee beneficiaries or a class of successor grantee beneficiaries,  
5.21 or both. If the transfer on death deed designates successor grantee beneficiaries or a class  
5.22 of successor grantee beneficiaries, the deed shall state the condition under which the  
5.23 interest of the successor grantee beneficiaries would vest.

5.24           Subd. 6. **Multiple joint tenant grantors.** If an interest in real property is owned  
5.25 as joint tenants, a transfer on death deed executed by all of the owners that conveys an  
5.26 interest in real property to one or more grantee beneficiaries transfers the interest to the  
5.27 grantee beneficiary or beneficiaries effective only after the death of the last surviving  
5.28 grantor owner. If the last surviving joint tenant owner did not execute the transfer on death  
5.29 deed, the deed is ineffective to transfer any interest and the deed is void. An estate in joint  
5.30 tenancy is not severed or affected by the subsequent execution of a transfer on death deed  
5.31 and the right of a surviving joint tenant owner who did not execute the transfer on death  
5.32 deed shall prevail over a grantee beneficiary named in a transfer on death deed unless the  
5.33 deed specifically states that it severs the joint tenancy ownership.

5.34           Subd. 7. **Execution by attorney-in-fact.** A transfer on death deed may be executed  
5.35 by a duly appointed attorney-in-fact pursuant to a power of attorney which grants the  
5.36 attorney-in-fact the authority to execute deeds.

6.1           Subd. 8. **Recording requirements and authorization.** A transfer on death deed  
6.2 is valid if the deed is recorded in a county in which at least a part of the real property  
6.3 described in the deed is located and is recorded before the death of the grantor owner  
6.4 upon whose death the conveyance or transfer is effective. A transfer on death deed is not  
6.5 effective for purposes of section 507.34, 508.47, or 508A.47 until the deed is recorded  
6.6 in the county in which the real property is located. When a transfer on death deed is  
6.7 presented for recording, no certification by the county auditor as to transfer of ownership  
6.8 and current and delinquent taxes shall be required or made and the transfer on death deed  
6.9 shall not be required to be accompanied by a certificate of real estate value. A transfer  
6.10 on death deed that otherwise satisfies all statutory requirements for recording may be  
6.11 recorded and shall be accepted for recording in the county in which the property described  
6.12 in the deed is located. If any part of the property described in the transfer on death deed  
6.13 is registered property, the registrar of titles shall accept the transfer on death deed for  
6.14 recording only if at least one of the grantors who executes the transfer on death deed  
6.15 appears of record to have an ownership interest in the property described in the deed. No  
6.16 certification or approval of a transfer on death deed shall be required of the examiner of  
6.17 titles prior to recording of the deed in the office of the registrar of titles.

6.18           Subd. 9. **Deed to trustee or other entity.** A transfer on death deed may transfer an  
6.19 interest in real property to the trustee of an inter vivos trust even if the trust is revocable,  
6.20 to the trustee of a testamentary trust or to any other entity legally qualified to hold title to  
6.21 real property under the laws of this state.

6.22           Subd. 10. **Revocation or modification of transfer on death deed.** (a) A transfer  
6.23 on death deed may be revoked at any time by the grantor owner or, if there is more than  
6.24 one grantor owner, by any of the grantor owners. To be effective, the revocation must  
6.25 be recorded in the county in which at least a part of the real property is located before  
6.26 the death of the grantor owner or owners who execute the revocation. The revocation is  
6.27 not effective for purposes of section 507.34, 508.47, or 508A.47 until the revocation is  
6.28 recorded in the county in which the real property is located. Subject to subdivision 6, if  
6.29 the real property is owned as joint tenants and if the revocation is not executed by all of  
6.30 the grantor owners, the revocation is not effective unless executed by the last surviving  
6.31 grantor owner.

6.32           (b) If a grantor owner conveys to a third party, subsequent to the recording of the  
6.33 transfer on death deed, by means other than a transfer on death deed, all or a part of such  
6.34 grantor owner's interest in the property described in the transfer on death deed, no transfer  
6.35 of the conveyed interest shall occur on such grantor owner's death and the transfer on  
6.36 death deed shall be ineffective as to the conveyed or transferred interests, but the transfer

7.1 on death deed remains effective with respect to the conveyance or transfer on death of  
7.2 any other interests described in the transfer on death deed owned by the grantor owner  
7.3 at the time of the grantor owner's death.

7.4 (c) A transfer on death deed is a "governing instrument" within the meaning of  
7.5 section 524.2-804 and, except as may otherwise be specifically provided for in the  
7.6 transfer on death deed, is subject to the same provisions as to revocation, revival, and  
7.7 nonrevocation set forth in section 524.2-804.

7.8 Subd. 11. **Antilapse; deceased beneficiary; words of survivorship.** (a) If a grantee  
7.9 beneficiary who is a grandparent or lineal descendant of a grandparent of the grantor  
7.10 owner fails to survive the grantor owner, the issue of the deceased grantee beneficiary who  
7.11 survive the grantor owner take in place of the deceased grantee beneficiary. If they are all  
7.12 of the same degree of kinship to the deceased grantee beneficiary, they take equally. If  
7.13 they are of unequal degree, those of more remote degree take by right of representation.

7.14 (b) For the purposes of this subdivision, words of survivorship such as, in a  
7.15 conveyance to an individual, "if he or she survives me," or, in a class gift, to "my surviving  
7.16 children," are a sufficient indication of intent to condition the conveyance or transfer upon  
7.17 the beneficiary surviving the grantor owner.

7.18 Subd. 12. **Lapse.** If all beneficiaries and all successor beneficiaries, if any,  
7.19 designated in a transfer on death deed, and also all successor beneficiaries who would take  
7.20 under the antilapse provisions of subdivision 11, fail to survive the grantor owner or the  
7.21 last survivor of the grantor owners if there are multiple grantor owners, if the beneficiary  
7.22 is a trust which has been revoked prior to the grantor owner's death, or if the beneficiary is  
7.23 an entity no longer in existence at the grantor owner's death, no transfer shall occur and  
7.24 the transfer on death deed is void.

7.25 Subd. 13. **Multiple transfer on death deeds.** If a grantor owner executes and  
7.26 records more than one transfer on death deed conveying the same interest in real property  
7.27 or a greater interest in the real property, the transfer on death deed that has the latest  
7.28 acknowledgment date and that is recorded before the death of the grantor owner upon  
7.29 whose death the conveyance or transfer is conditioned is the effective transfer on death  
7.30 deed and all other transfer on death deeds, if any, executed by the grantor owner or the  
7.31 grantor owners are ineffective to transfer any interest and are void.

7.32 Subd. 14. **Nonademption; unpaid proceeds of sale, condemnation, or insurance;**  
7.33 **sale by conservator or guardian.** If at the time of the death of the grantor owner upon  
7.34 whose death the conveyance or transfer is stated to be effective, the grantor owner did  
7.35 not own a part or all of the real property described in the transfer on death deed, no  
7.36 conveyance or transfer to the beneficiary of the nonowned part of the real property shall

8.1 occur upon the death of the grantor owner and the transfer on death deed is void as to the  
8.2 nonowned part of the real property, but the beneficiary shall have the same rights to unpaid  
8.3 proceeds of sale, condemnation or insurance, and, if sold by a conservator or guardian  
8.4 of the grantor owner during the grantor owner's lifetime, the same rights to a general  
8.5 pecuniary devise, as that of a specific devisee as set forth in section 524.2-606.

8.6 Subd. 15. **Nonexoneration.** Except as otherwise provided in subdivision 3, a  
8.7 conveyance or transfer under a transfer on death deed passes the described property  
8.8 subject to any mortgage or security interest existing at the date of death of the grantor  
8.9 owner, without right of exoneration, regardless of any statutory obligations to pay the  
8.10 grantor owner's debts upon death and regardless of a general directive in the grantor  
8.11 owner's will to pay debts.

8.12 Subd. 16. **Disclaimer by beneficiary.** A grantee beneficiary's interest under a  
8.13 transfer on death deed may be disclaimed as provided in section 501B.86, or as otherwise  
8.14 provided by law.

8.15 Subd. 17. **Effect on other conveyances.** This section does not prohibit other  
8.16 methods of conveying property that are permitted by law and that have the effect of  
8.17 postponing ownership or enjoyment of an interest in real property until the death of the  
8.18 owner. This section does not invalidate any deed that is not a transfer on death deed and  
8.19 that is otherwise effective to convey title to the interests and estates described in the deed  
8.20 that is not recorded until after the death of the owner.

8.21 Subd. 18. **Notice, consent, and delivery not required.** The signature, consent or  
8.22 agreement of, or notice to, a grantee beneficiary under a transfer on death deed, or delivery  
8.23 of the transfer on death deed to the grantee beneficiary, is not required for any purpose  
8.24 during the lifetime of the grantor owner.

8.25 Subd. 19. **Nonrevocation by will.** A transfer on death deed that is executed,  
8.26 acknowledged, and recorded in accordance with this section is not revoked by the  
8.27 provisions of a will.

8.28 Subd. 20. **Proof of survivorship and clearance from public assistance claims**  
8.29 **and liens; recording.** An affidavit of identity and survivorship with a certified copy of a  
8.30 record of death as an attachment may be combined with a clearance certificate under this  
8.31 section and the combined documents may be recorded separately or as one document in  
8.32 each county in which the real estate described in the clearance certificate is located. The  
8.33 affidavit, record of death, and clearance certificate, whether combined or separate shall be  
8.34 prima facie evidence of the facts stated in each, and the registrar of titles may rely on the  
8.35 statements to transfer title to the property described in the clearance certificate.

9.1           Subd. 21. **After-acquired property.** Except as provided in this subdivision, a  
9.2 transfer on death deed is not effective to transfer any interest in real property acquired by a  
9.3 grantor owner subsequent to the date of signing of a transfer on death deed. A grantor  
9.4 owner may provide by specific language in a transfer on death deed that the transfer on  
9.5 death deed will apply to any interest in the described property acquired by the grantor  
9.6 owner after the signing or recording of the deed.

9.7           Subd. 22. **Anticipatory alienation prohibited.** The interest of a grantee beneficiary  
9.8 under a transfer on death deed which has not yet become effective is not subject to  
9.9 alienation; assignment; encumbrance; appointment or anticipation by the beneficiary;  
9.10 garnishment; attachment; execution or bankruptcy proceedings; claims for alimony,  
9.11 support, or maintenance; payment of other obligations by any person against the  
9.12 beneficiary; or any other transfer, voluntary or involuntary, by or from any beneficiary.

9.13           Subd. 23. **Clearance for public assistance claims and liens.** Any person claiming  
9.14 an interest in real property conveyed or transferred by a transfer on death deed, or the  
9.15 person's attorney or other agent, may apply to the county agency in the county in which  
9.16 the real property is located for a clearance certificate for the real property described in  
9.17 the transfer on death deed. The application shall contain the same information and shall  
9.18 be submitted, processed, and resolved in the same manner and on the same terms and  
9.19 conditions as provided in section 525.313 for a clearance certificate in a decree of descent  
9.20 proceeding, except that a copy of a notice of hearing does not have to accompany the  
9.21 application. The application may contain a statement that the applicant, after reasonably  
9.22 diligent inquiry, is not aware of the existence of a predeceased spouse or the existence of  
9.23 a claim which could be recovered under section 246.53, 256B.15, 256D.16, 261.04, or  
9.24 514.981. If the county agency determines that a claim or lien exists under section 246.53,  
9.25 256B.15, 256D.16, 261.04, or 514.981, the provisions of section 525.313 shall apply to  
9.26 collection, compromise, and settlement of the claim or lien. A person claiming an interest  
9.27 in real property transferred or conveyed by a transfer on death deed may petition or move  
9.28 the district court, as appropriate, in the county in which the real property is located or in  
9.29 the county in which a probate proceeding affecting the estate of the grantor of the transfer  
9.30 on death deed is pending, for an order allowing sale of the real property free and clear  
9.31 of any public assistance claim or lien but subject to disposition of the sale proceeds as  
9.32 provided in section 525.313. On a showing of good cause and subject to such notice as the  
9.33 court may require, the court without hearing may issue an order allowing the sale free  
9.34 and clear of any public assistance claim or lien on such terms and conditions as the court  
9.35 deems advisable to protect the interests of the state or county agency.

10.1 Subd. 24. Form of transfer on death deed. A transfer on death deed may be  
10.2 substantially in the following form:

10.3 Transfer on Death Deed

10.4 I (we) \_\_\_\_\_ (grantor owner or owners and spouses,  
10.5 if any, with marital status designated), grantor(s), hereby convey(s) and  
10.6 quitclaim(s) to \_\_\_\_\_ (grantee beneficiary, whether one  
10.7 or more) effective (check only one of the following)

10.8 \_\_\_\_\_ on the death of the grantor owner, if only one grantor is named above, or  
10.9 on the death of the last of the grantor owners to die, if more than one grantor  
10.10 owner is named above, or

10.11 \_\_\_\_\_ on the death of (name of grantor owner)

10.12 \_\_\_\_\_ (must be one of the grantor owners named above),  
10.13 the following described real property:

10.14 (Legal description)

10.15 If checked, the following optional statement applies:

10.16 \_\_\_\_\_ When effective, this instrument conveys any and all interests in the  
10.17 described real property acquired by the grantor owner(s) before, on, or after the  
10.18 date of this instrument.

10.19 \_\_\_\_\_  
10.20 (Signature of grantor(s))  
10.21 (acknowledgment)

10.22 Subd. 25. Form of instrument of revocation. An instrument of revocation may be  
10.23 substantially in the following form:

10.24 Revocation of Transfer on Death Deed

10.25 The undersigned hereby revokes the transfer on death deed recorded on  
10.26 \_\_\_\_\_, \_\_\_\_\_, as Document No. \_\_\_\_\_ (or in Book \_\_\_\_\_  
10.27 of \_\_\_\_\_, Page \_\_\_\_\_) in the office of the (County Recorder) (Registrar of  
10.28 Titles) of \_\_\_\_\_ County, Minnesota, affecting real property legally  
10.29 described as follows:

10.30 (legal description)

10.31 Dated:

10.32 \_\_\_\_\_  
10.33 Signature

10.34 (acknowledgment)

11.1 Sec. 4. Minnesota Statutes 2006, section 508.52, is amended to read:

11.2 **508.52 CONVEYANCE; CANCELLATION OF OLD AND ISSUANCE OF**  
11.3 **NEW CERTIFICATE.**

11.4 An owner of registered land who desires to convey the land, or a portion thereof, in  
11.5 fee, shall execute a deed of conveyance, and ~~file~~ record the deed with the registrar. The  
11.6 deed of conveyance shall be ~~filed~~ recorded and endorsed with the number and place of  
11.7 registration of the certificate of title. Before canceling the outstanding certificate of title  
11.8 the registrar shall show by memorial thereon the registration of the deed on the basis of  
11.9 which it is canceled. The encumbrances, claims, or interests adverse to the title of the  
11.10 registered owner shall be stated upon the new certificate, except so far as they may be  
11.11 simultaneously released or discharged. The registrar shall not carry forward as a memorial  
11.12 on the new certificate of title any memorials of a transfer on death deed if the grantors of  
11.13 the transfer on death deed retain no fee interest in the land covered by the new certificate.  
11.14 The certificate of title shall be marked "Canceled" by the registrar, who shall enter in the  
11.15 register a new certificate of title to the grantee and prepare and deliver to the grantee a  
11.16 copy of the new certificate of title. If a deed in fee is for a portion of the land described in  
11.17 a certificate of title, the memorial of the deed entered by the registrar shall include the  
11.18 legal description contained in the deed and the registrar shall enter a new certificate of title  
11.19 to the grantee for the portion of the land conveyed and, except as otherwise provided in  
11.20 this section, issue a residue certificate of title to the grantor for the portion of the land not  
11.21 conveyed. The registrar shall prepare and deliver to each of the parties a copy of their  
11.22 respective certificates of title. In lieu of canceling the grantor's certificate of title and  
11.23 issuing a residue certificate to the grantor for the portion of the land not conveyed, the  
11.24 registrar may if the grantor's deed does not divide a parcel of unplatted land, and in the  
11.25 absence of a request to the contrary by the registered owner, mark by the land description  
11.26 on the certificate of title "Part of land conveyed, see memorials." The fee for a residue  
11.27 certificate of title shall be paid to the registrar only when the grantor's certificate of title  
11.28 is canceled after the conveyance by the grantor of a portion of the land described in the  
11.29 grantor's certificate of title. When two or more successive conveyances of the same  
11.30 property are filed for registration on the same day the registrar may enter a certificate  
11.31 in favor of the grantee or grantees in the last of the successive conveyances, and the  
11.32 memorial of the previous deed or deeds entered on the prior certificate of title shall have  
11.33 the same force and effect as though the prior certificate of title had been entered in favor  
11.34 of the grantee or grantees in the earlier deed or deeds in the successive conveyances. The  
11.35 fees for the registration of the earlier deed or deeds shall be the same as the fees prescribed  
11.36 for the entry of memorials. The registrar of titles, with the consent of the transferee, may

12.1 mark "See memorials for new owner(s)" by the names of the registered owners on the  
12.2 certificate of title and also add to the memorial of the transferring conveyance a statement  
12.3 that the memorial shall serve in lieu of a new certificate of title in favor of the grantee or  
12.4 grantees therein noted and may refrain from canceling the certificate of title until the time  
12.5 it is canceled by a subsequent transfer, and the memorial showing such transfer of title  
12.6 shall have the same effect as the entry of a new certificate of title for the land described in  
12.7 the certificate of title; the fee for the registration of a conveyance without cancellation of  
12.8 the certificate of title shall be the same as the fee prescribed for the entry of a memorial.

12.9 Sec. 5. Minnesota Statutes 2006, section 508A.52, is amended to read:

12.10 **508A.52 CONVEYANCE; CANCELLATION OF OLD AND ISSUANCE OF**  
12.11 **NEW CPT.**

12.12 An owner of land registered under sections 508A.01 to 508A.85 who desires to  
12.13 convey the land, or a portion of it, in fee, shall execute a deed of conveyance, and ~~file~~  
12.14 record the deed with the registrar. The deed of conveyance shall be ~~filed~~ recorded and  
12.15 endorsed with the number and place of registration of the CPT. Before canceling the  
12.16 outstanding CPT, the registrar shall show by memorial on it the registration of the deed on  
12.17 the basis of which it is canceled. The encumbrances, claims, or interests adverse to the  
12.18 title of the registered owner shall be stated upon the new CPT, except so far as they may be  
12.19 simultaneously released or discharged. The registrar shall not carry forward as a memorial  
12.20 on the new CPT any memorials of a transfer on death deed if the grantors of the transfer  
12.21 on death deed retain no fee interest in the real property covered by the new CPT. The CPT  
12.22 shall be marked "Canceled" by the registrar, who shall enter in the register a new CPT  
12.23 to the grantee, and prepare and deliver to the grantee a copy of the new CPT. If a deed  
12.24 in fee is for a portion of the land described in a CPT, the memorial of the deed entered  
12.25 by the registrar shall include the legal description contained in the deed and the registrar  
12.26 shall enter a new CPT to the grantee for the portion of the land conveyed and, except as  
12.27 otherwise provided in this section, issue a residue CPT to the grantor for the portion of  
12.28 the land not conveyed. The registrar shall prepare and deliver to each of the parties a  
12.29 copy of their respective ~~CPTs~~ CPT's. In lieu of canceling the grantor's CPT and issuing a  
12.30 residue CPT to the grantor for the portion of the land not conveyed, the registrar may if the  
12.31 grantor's deed does not divide a parcel of unplatted land, and in the absence of a request to  
12.32 the contrary by the registered owner, mark by the land description on the CPT "Part of  
12.33 land conveyed, see memorials." The fee for a residue CPT shall be paid to the registrar  
12.34 only when the grantor's CPT is canceled after the conveyance by the grantor of a portion  
12.35 of the land described in the grantor's CPT. When two or more successive conveyances

13.1 of the same property are filed for registration on the same day the registrar may enter a  
13.2 CPT in favor of the grantee or grantees in the last of the successive conveyances, and the  
13.3 memorial of the previous deed or deeds entered on the prior CPT shall have the same force  
13.4 and effect as though the prior CPT had been entered in favor of the grantee or grantees in  
13.5 the earlier deed or deeds in the successive conveyances. The fees for the registration of the  
13.6 earlier deed or deeds shall be the same as the fees prescribed for the entry of memorials.  
13.7 The registrar of titles, with the consent of the transferee, may mark "See memorials for  
13.8 new owner(s)" by the names of the registered owners on the CPT and also add to the  
13.9 memorial of the transferring conveyance a statement that the memorial shall serve in lieu  
13.10 of a new CPT in favor of the grantee or grantees noted in it and may refrain from canceling  
13.11 the CPT until the time it is canceled by a subsequent transfer, and the memorial showing  
13.12 the transfer of title shall have the same effect as the entry of a new CPT for the land  
13.13 described in the CPT. The fee for the registration of a conveyance without cancellation of  
13.14 the CPT shall be the same as the fee prescribed for the entry of a memorial.

13.15 Sec. 6. Minnesota Statutes 2006, section 524.2-702, is amended to read:

13.16 **524.2-702 REQUIREMENT OF SURVIVAL FOR 120 HOURS FOR**  
13.17 **DEVISEES, BENEFICIARIES OF CERTAIN TRUSTS, AND APPOINTEES OF**  
13.18 **CERTAIN POWERS OF APPOINTMENT; SIMULTANEOUS DEATH ACT FOR**  
13.19 **OTHER CASES.**

13.20 (a) **Requirement of survival for 120 hours.** A beneficiary of a trust in which  
13.21 the grantor has reserved a power to alter, amend, revoke, or terminate the provisions of  
13.22 the trust who fails to survive the grantor by 120 hours, a devisee who fails to survive  
13.23 the testator by 120 hours, a beneficiary named in a transfer on death deed under  
13.24 section 507.071 who fails to survive by 120 hours the grantor owner upon whose death  
13.25 the conveyance to the beneficiary becomes effective, or an appointee of a power of  
13.26 appointment taking effect at the death of the holder of the power who fails to survive the  
13.27 holder of the power by 120 hours is deemed to have predeceased the grantor, grantor  
13.28 owner testator, or holder of the power for purposes of determining title to property passing  
13.29 by the trust instrument, by the testator's will, by the transfer on death deed, or by the  
13.30 exercise of the power of appointment.

13.31 (b)(1) **Title to property in other cases.** In cases not governed by section 524.2-104  
13.32 or paragraph (a), where the title to property or the devolution thereof depends upon  
13.33 priority of death and there is no sufficient evidence that the persons have died otherwise  
13.34 than simultaneously, the property of each person shall be disposed of as if the person had  
13.35 survived, except as provided otherwise in this paragraph.

14.1 (2) **Division of property.** Where two or more beneficiaries are designated to take  
 14.2 successively by reason of survivorship under another person's disposition of property  
 14.3 and there is no sufficient evidence that these beneficiaries have died otherwise than  
 14.4 simultaneously the property thus disposed of shall be divided into as many equal portions  
 14.5 as there are successive beneficiaries and these portions shall be distributed respectively to  
 14.6 those who would have taken in the event that each designated beneficiary had survived.

14.7 (3) **Division of property.** Where there is no sufficient evidence that two joint  
 14.8 tenants or tenants by the entirety have died otherwise than simultaneously the property  
 14.9 so held shall be distributed one-half as if one had survived and one-half as if the other  
 14.10 had survived. If there are more than two joint tenants and all of them have so died the  
 14.11 property thus distributed shall be in the proportion that one bears to the whole number of  
 14.12 joint tenants.

14.13 (4) **Division of property.** Where the insured and the beneficiary in a policy of  
 14.14 life or accident insurance have died and there is no sufficient evidence that they have  
 14.15 died otherwise than simultaneously the proceeds of the policy shall be distributed as if  
 14.16 the insured had survived the beneficiary.

14.17 (c) **Not retroactive.** This section does not apply to the distribution of the property of  
 14.18 a person who has died before it takes effect. Paragraph (a) applies only to persons who  
 14.19 die on or after August 1, 1999.

14.20 (d) **Application.** This section does not apply in the case of wills, trusts, deeds,  
 14.21 contracts of insurance, or documents exercising powers of appointment wherein provision  
 14.22 has been made for distribution of property different from the provisions of this section.  
 14.23 Paragraph (a) does not apply to trusts which are part of a qualified or nonqualified  
 14.24 retirement plan or individual retirement accounts.

14.25 Sec. 7. **EFFECTIVE DATE.**

14.26 This article is effective August 1, 2008, and applies to instruments of conveyance of  
 14.27 real property recorded on or after that date, regardless of an instrument's date of execution.

14.28 **ARTICLE 2**  
 14.29 **MISCELLANEOUS**

14.30 Section 1. Minnesota Statutes 2007 Supplement, section 507.24, subdivision 2, is  
 14.31 amended to read:

14.32 Subd. 2. **Original signatures required.** (a) Unless otherwise provided by law, an  
 14.33 instrument affecting real estate that is to be recorded as provided in this section or other  
 14.34 applicable law must contain the original signatures of the parties who execute it and of the

15.1 notary public or other officer taking an acknowledgment. However, a financing statement  
15.2 that is recorded as a filing pursuant to section 336.9-502(b) need not contain: (1) the  
15.3 signatures of the debtor or the secured party; or (2) an acknowledgment. An instrument  
15.4 acknowledged in a representative capacity as defined in section 358.41 on behalf of a  
15.5 corporation, partnership, limited liability company, or trust that is otherwise entitled to  
15.6 be recorded shall be recorded if the acknowledgment made in a representative capacity  
15.7 is substantially in the form prescribed in chapter 358, without further inquiry into the  
15.8 authority of the person making the acknowledgment.

15.9 (b)(1) Any electronic instruments, including signatures and seals, affecting real  
15.10 estate may only be recorded as part of a pilot project for the electronic filing of real  
15.11 estate documents implemented by the task force created in Laws 2000, chapter 391, or  
15.12 by the Electronic Real Estate Recording Task Force created under section 507.094. The  
15.13 Electronic Real Estate Recording Task Force created under section 507.094 may amend  
15.14 standards set by the task force created in Laws 2000, chapter 391, and may set new or  
15.15 additional standards and establish pilot projects to the full extent permitted in section  
15.16 507.094, subdivision 2, paragraph (b). Documents recorded in conformity with those  
15.17 standards and in those pilot projects are deemed to meet the requirements of this section.

15.18 (2)(i) A county that participated in the pilot project for the electronic filing of real  
15.19 estate documents under the task force created in Laws 2000, chapter 391, may continue to  
15.20 record or file documents electronically, if:

15.21 (A) the county complies with standards adopted by the task force; and

15.22 (B) the county uses software that was validated by the task force.

15.23 (ii) A county that did not participate in the pilot project may record or file a real  
15.24 estate document electronically, if:

15.25 (A) the document to be recorded or filed is of a type included in the pilot project  
15.26 for the electronic filing of real estate documents under the task force created in Laws  
15.27 2000, chapter 391;

15.28 (B) the county complies with the standards adopted by the task force;

15.29 (C) the county uses software that was validated by the task force; and

15.30 (D) the task force created under section 507.094, votes to accept a written  
15.31 certification of compliance with paragraph (b), clause (2), of this section by the county  
15.32 board and county recorder of the county to implement electronic filing under this section.

15.33 (c) Notices filed pursuant to section 168A.141, subdivisions 1 and 3, need not  
15.34 contain an acknowledgment.

16.1 Sec. 2. Minnesota Statutes 2006, section 508.02, is amended to read:

16.2 **508.02 REGISTERED LAND; SAME INCIDENTS AS UNREGISTERED;**  
 16.3 **NO ADVERSE POSSESSION.**

16.4 Registered land shall be subject to the same burdens and incidents which attach by  
 16.5 law to unregistered land. This chapter shall not operate to relieve registered land or the  
 16.6 owners thereof from any rights, duties, or obligations incident to or growing out of the  
 16.7 marriage relation, or from liability to attachment on mesne process, or levy on execution,  
 16.8 or from liability to any lien or charge of any description, created or established by law  
 16.9 upon the land or the buildings situated thereon, or the interest of the owner in such land  
 16.10 or buildings. It shall not operate to change the laws of descent or the rights of partition  
 16.11 between cotenants, or the right to take the land by eminent domain. It shall not operate to  
 16.12 relieve such land from liability to be taken or recovered by any assignee or receiver under  
 16.13 any provision of law relative thereto, and shall not operate to change or affect any other  
 16.14 rights, burdens, liabilities, or obligations created by law and applicable to unregistered  
 16.15 land except as otherwise expressly provided herein. No title to registered land in  
 16.16 derogation of that of the registered owner shall be acquired by prescription or by adverse  
 16.17 possession; but the common law doctrine of practical location of boundaries applies  
 16.18 to registered land whenever registered. Section 508.671 shall apply in a proceedings  
 16.19 subsequent to establish a boundary by practical location for registered land.

16.20 Sec. 3. Minnesota Statutes 2006, section 508.48, is amended to read:

16.21 **508.48 INSTRUMENTS AFFECTING TITLE FILED WITH REGISTRAR;**  
 16.22 **NOTICE.**

16.23 (a) Every conveyance, lien, attachment, order, decree, or judgment, or other  
 16.24 instrument or proceeding, which would affect the title to unregistered land under existing  
 16.25 laws, if recorded, or filed with the county recorder, shall, in like manner, affect the title to  
 16.26 registered land if filed and registered with the registrar in the county where the real estate  
 16.27 is situated, and shall be notice to all persons from the time of such registering or filing  
 16.28 of the interests therein created. Neither the reference in a registered instrument to an  
 16.29 unregistered instrument or interest nor the joinder in a registered instrument by a party or  
 16.30 parties with no registered interest shall constitute notice, either actual or constructive, of  
 16.31 an unregistered interest.

16.32 (b) An instrument acknowledged in a representative capacity as defined in section  
 16.33 358.41 on behalf of a corporation, partnership, limited liability company, or trust that is  
 16.34 otherwise entitled to be recorded shall be recorded if the acknowledgment made in a

17.1 representative capacity is substantially in the form prescribed in chapter 358, without  
17.2 further inquiry into the authority of the person making the acknowledgment.

17.3 Sec. 4. Minnesota Statutes 2006, section 508.671, subdivision 1, is amended to read:

17.4 Subdivision 1. **Petition.** An owner of registered land having one or more common  
17.5 boundaries with registered or unregistered land or an owner of unregistered land having  
17.6 one or more common boundaries with registered land may apply by a duly verified petition  
17.7 to the court to have all or some of the common boundary lines judicially determined. The  
17.8 petition shall contain the full names and post office addresses of all owners of adjoining  
17.9 lands which are in any manner affected by the boundary determination. At the time of  
17.10 the filing of the petition with the court administrator, a copy of it, duly certified by the  
17.11 court administrator, shall be filed for record with the county recorder. If any of the  
17.12 adjoining lands are registered, the certified copy of the petition also shall be filed with the  
17.13 registrar of titles and entered as a memorial on the certificate of title for those lands. When  
17.14 recorded or filed, the certified copy of the petition shall be notice forever to purchasers  
17.15 and encumbrancers of the pendency of the proceeding and of all matters referred to in the  
17.16 court files and records pertaining to the proceeding. The owner shall have the premises  
17.17 surveyed by a licensed land surveyor and shall file in the proceedings a plat of the survey  
17.18 showing the correct location of the boundary line or lines to be determined. There also  
17.19 shall be filed with the court administrator a memorandum abstract, satisfactory to the  
17.20 examiner, showing the record owners and encumbrancers of the adjoining lands which  
17.21 are in any manner affected by the boundary line determination. The petition shall be  
17.22 referred to the examiner of titles for examination and report in the manner provided for the  
17.23 reference of initial applications for registration. Notice of the proceeding shall be given to  
17.24 all interested persons by the service of a summons which shall be issued in the form and  
17.25 served in the manner as in initial applications.

17.26 Sec. 5. Minnesota Statutes 2006, section 508A.02, subdivision 1, is amended to read:

17.27 Subdivision 1. **Effect of registration.** Land registered under sections 508A.01 to  
17.28 508A.85 shall be registered subject to the rights of persons in possession, if any, and rights  
17.29 which would be disclosed by a survey, except that no title in derogation of that of the  
17.30 registered owner shall be acquired by prescription or adverse possession after the date  
17.31 of the first CPT; otherwise, land registered under sections 508A.01 to 508A.85 shall be  
17.32 subject to the same rights, protections, burdens, and incidents which attach by law to  
17.33 lands as provided in section 508.02. The common law doctrine of practical location of  
17.34 boundaries applies to property registered under sections 508A.01 to 508A.85 whenever

18.1 registered. Section 508.671 shall apply in a proceedings subsequent to establish a  
 18.2 boundary by practical location for property registered under sections 508A.01 to 508A.85.

18.3 Sec. 6. Minnesota Statutes 2006, section 508A.48, is amended to read:

18.4 **508A.48 FILED INSTRUMENT AFFECTING TITLE IS NOTICE.**

18.5 (a) Every conveyance, lien, attachment, order, decree, or judgment, or other  
 18.6 instrument or proceeding, which would affect the title to unregistered land under existing  
 18.7 laws, if recorded, or filed with the county recorder, shall, in like manner, affect the title to  
 18.8 land registered under sections 508A.01 to 508A.85 if filed and registered with the registrar  
 18.9 in the county where the real estate is situated, and shall be notice to all persons from the  
 18.10 time of the registering or filing of the interests therein created. Neither the reference  
 18.11 in a registered instrument to an unregistered instrument or interest nor the joinder in  
 18.12 a registered instrument by a party or parties with no registered interest shall constitute  
 18.13 notice, either actual or constructive, of an unregistered interest.

18.14 (b) An instrument acknowledged in a representative capacity as defined in section  
 18.15 358.41 on behalf of a corporation, partnership, limited liability company, or trust that is  
 18.16 otherwise entitled to be recorded shall be recorded if the acknowledgment made in a  
 18.17 representative capacity is substantially in the form prescribed in chapter 358, without  
 18.18 further inquiry into the authority of the person making the acknowledgment.

18.19 Sec. 7. Minnesota Statutes 2006, section 557.02, is amended to read:

18.20 **557.02 NOTICE OF LIS PENDENS.**

18.21 In all actions in which the title to, or any interest in or lien upon, real property is  
 18.22 involved or affected, or is brought in question by either party, any party thereto, at the time  
 18.23 of filing the complaint, or at any time thereafter during the pendency of such action, may  
 18.24 file for record with the county recorder of each county in which any part of the premises  
 18.25 lies a notice of the pendency of the action, containing the names of the parties, the object  
 18.26 of the action, and a description of the real property in such county involved, affected or  
 18.27 brought in question thereby. From the time of the filing of such notice, and from such time  
 18.28 only, the pendency of the action shall be notice to purchasers and encumbrancers of the  
 18.29 rights and equities of the party filing the same to the premises. When any pleading is  
 18.30 amended in such action, so as to alter the description of, or to extend the claim against,  
 18.31 the premises affected, a new notice may be filed, with like effect. Such notice shall be  
 18.32 recorded ~~in the same book and~~ in the same manner in which mortgages are recorded, and  
 18.33 may be discharged ~~by an entry to that effect in the margin of the record by the party filing~~  
 18.34 ~~the same, or the party's attorney, in the presence of the recorder, or by writing executed~~

19.1 and acknowledged in the manner of conveyance, ~~whereupon the recorder shall enter a~~  
19.2 ~~minute thereof on the margin of such record.~~ The filing of such lis pendens at the time  
19.3 of filing the complaint and before the commencement of the action shall have no force,  
19.4 effect, or validity against the premises described in the lis pendens, unless the filing of the  
19.5 complaint is followed by the service of the summons in the action within 90 days after the  
19.6 filing of the complaint therein. Any party claiming any title or interest in or to the real  
19.7 property involved or affected may on such notice as the court shall in each case prescribe,  
19.8 make application to the district court in the county in which the action is pending or in  
19.9 which the real property involved or affected is situated, for an order discharging the lis  
19.10 pendens of record, when any such action has not been brought on for trial within two years  
19.11 after the filing of the lis pendens and in case the court orders the lis pendens discharged  
19.12 of record upon the filing of a certified copy of the order of the court in the office of the  
19.13 county recorder, where the real property is situated, the lis pendens shall be void and of  
19.14 no force nor effect.

19.15 Sec. 8. **EFFECTIVE DATE.**

19.16 (a) Sections 1, 3, and 6 are effective the day following final enactment, and apply  
19.17 to documents acknowledged before, on, or after that date.

19.18 (b) Sections 2, 4, and 5 are effective August 1, 2008, and apply to land registered  
19.19 under Minnesota Statutes, chapter 508 or 508A, whenever registered.