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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **3134**

February 18, 2008

Authored by Thissen and Emmer

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

March 18, 2008

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Finance

March 31, 2008

Committee Recommendation and Adoption of Report:

To Pass

Read Second Time

A bill for an act

relating to real property; providing for conveyance of interests in real property by transfer on death deeds; clarifying acknowledgments made in a representative capacity; clarifying application of certain common law doctrine to registered land; eliminating obsolete language and making other technical and conforming changes; amending Minnesota Statutes 2006, sections 256B.15, subdivisions 1h, 1i; 272.12; 287.22; 508.02; 508.48; 508.52; 508.671, subdivision 1; 508A.02, subdivision 1; 508A.48; 508A.52; 524.2-702; 557.02; Minnesota Statutes 2007 Supplement, section 507.24, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 507.

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

ARTICLE 1

TRANSFER ON DEATH DEEDS

Section 1. Minnesota Statutes 2006, section 256B.15, subdivision 1h, is amended to read:

Subd. 1h. **Estates of specific persons receiving medical assistance.** (a) For purposes of this section, paragraphs (b) to (k) apply if a person received medical assistance for which a claim may be filed under this section and died single, or the surviving spouse of the couple and was not survived by any of the persons described in subdivisions 3 and 4.

(b) For purposes of this section, the person's estate consists of: (1) their probate estate; (2) all of the person's interests or proceeds of those interests in real property the person owned as a life tenant or as a joint tenant with a right of survivorship at the time of the person's death; (3) all of the person's interests or proceeds of those interests in securities the person owned in beneficiary form as provided under sections 524.6-301 to 524.6-311 at the time of the person's death, to the extent they become part of the probate estate under section 524.6-307; ~~and~~ (4) all of the person's interests in joint accounts, multiple party

2.1 accounts, and pay on death accounts, or the proceeds of those accounts, as provided under
2.2 sections 524.6-201 to 524.6-214 at the time of the person's death to the extent they become
2.3 part of the probate estate under section 524.6-207; and (5) the person's legal title or interest
2.4 at the time of the person's death in real property transferred under a transfer on death deed
2.5 under section 507.071, or in the proceeds from the subsequent sale of the person's interest
2.6 in real property. Notwithstanding any law or rule to the contrary, a state or county agency
2.7 with a claim under this section shall be a creditor under section 524.6-307.

2.8 (c) Notwithstanding any law or rule to the contrary, the person's life estate or joint
2.9 tenancy interest in real property not subject to a medical assistance lien under sections
2.10 514.980 to 514.985 on the date of the person's death shall not end upon the person's death
2.11 and shall continue as provided in this subdivision. The life estate in the person's estate
2.12 shall be that portion of the interest in the real property subject to the life estate that is equal
2.13 to the life estate percentage factor for the life estate as listed in the Life Estate Mortality
2.14 Table of the health care program's manual for a person who was the age of the medical
2.15 assistance recipient on the date of the person's death. The joint tenancy interest in real
2.16 property in the estate shall be equal to the fractional interest the person would have owned
2.17 in the jointly held interest in the property had they and the other owners held title to the
2.18 property as tenants in common on the date the person died.

2.19 (d) The court upon its own motion, or upon motion by the personal representative or
2.20 any interested party, may enter an order directing the remaindermen or surviving joint
2.21 tenants and their spouses, if any, to sign all documents, take all actions, and otherwise
2.22 fully cooperate with the personal representative and the court to liquidate the decedent's
2.23 life estate or joint tenancy interests in the estate and deliver the cash or the proceeds of
2.24 those interests to the personal representative and provide for any legal and equitable
2.25 sanctions as the court deems appropriate to enforce and carry out the order, including an
2.26 award of reasonable attorney fees.

2.27 (e) The personal representative may make, execute, and deliver any conveyances or
2.28 other documents necessary to convey the decedent's life estate or joint tenancy interest
2.29 in the estate that are necessary to liquidate and reduce to cash the decedent's interest or
2.30 for any other purposes.

2.31 (f) Subject to administration, all costs, including reasonable attorney fees, directly
2.32 and immediately related to liquidating the decedent's life estate or joint tenancy interest in
2.33 the decedent's estate, shall be paid from the gross proceeds of the liquidation allocable
2.34 to the decedent's interest and the net proceeds shall be turned over to the personal
2.35 representative and applied to payment of the claim presented under this section.

3.1 (g) The personal representative shall bring a motion in the district court in which
3.2 the estate is being probated to compel the remaindermen or surviving joint tenants to
3.3 account for and deliver to the personal representative all or any part of the proceeds of any
3.4 sale, mortgage, transfer, conveyance, or any disposition of real property allocable to the
3.5 decedent's life estate or joint tenancy interest in the decedent's estate, and do everything
3.6 necessary to liquidate and reduce to cash the decedent's interest and turn the proceeds of
3.7 the sale or other disposition over to the personal representative. The court may grant any
3.8 legal or equitable relief including, but not limited to, ordering a partition of real estate
3.9 under chapter 558 necessary to make the value of the decedent's life estate or joint tenancy
3.10 interest available to the estate for payment of a claim under this section.

3.11 (h) Subject to administration, the personal representative shall use all of the cash
3.12 or proceeds of interests to pay an allowable claim under this section. The remaindermen
3.13 or surviving joint tenants and their spouses, if any, may enter into a written agreement
3.14 with the personal representative or the claimant to settle and satisfy obligations imposed at
3.15 any time before or after a claim is filed.

3.16 (i) The personal representative may, at their discretion, provide any or all of the
3.17 other owners, remaindermen, or surviving joint tenants with an affidavit terminating the
3.18 decedent's estate's interest in real property the decedent owned as a life tenant or as a joint
3.19 tenant with others, if the personal representative determines in good faith that neither the
3.20 decedent nor any of the decedent's predeceased spouses received any medical assistance
3.21 for which a claim could be filed under this section, or if the personal representative has
3.22 filed an affidavit with the court that the estate has other assets sufficient to pay a claim, as
3.23 presented, or if there is a written agreement under paragraph (h), or if the claim, as allowed,
3.24 has been paid in full or to the full extent of the assets the estate has available to pay it. The
3.25 affidavit may be recorded in the office of the county recorder or filed in the Office of the
3.26 Registrar of Titles for the county in which the real property is located. Except as provided
3.27 in section 514.981, subdivision 6, when recorded or filed, the affidavit shall terminate the
3.28 decedent's interest in real estate the decedent owned as a life tenant or a joint tenant with
3.29 others. The affidavit shall: (1) be signed by the personal representative; (2) identify the
3.30 decedent and the interest being terminated; (3) give recording information sufficient to
3.31 identify the instrument that created the interest in real property being terminated; (4)
3.32 legally describe the affected real property; (5) state that the personal representative has
3.33 determined that neither the decedent nor any of the decedent's predeceased spouses
3.34 received any medical assistance for which a claim could be filed under this section; (6)
3.35 state that the decedent's estate has other assets sufficient to pay the claim, as presented, or
3.36 that there is a written agreement between the personal representative and the claimant and

4.1 the other owners or remaindermen or other joint tenants to satisfy the obligations imposed
4.2 under this subdivision; and (7) state that the affidavit is being given to terminate the
4.3 estate's interest under this subdivision, and any other contents as may be appropriate.

4.4 The recorder or registrar of titles shall accept the affidavit for recording or filing. The
4.5 affidavit shall be effective as provided in this section and shall constitute notice even if it
4.6 does not include recording information sufficient to identify the instrument creating the
4.7 interest it terminates. The affidavit shall be conclusive evidence of the stated facts.

4.8 (j) The holder of a lien arising under subdivision 1c shall release the lien at the
4.9 holder's expense against an interest terminated under paragraph (h) to the extent of the
4.10 termination.

4.11 (k) If a lien arising under subdivision 1c is not released under paragraph (j), prior to
4.12 closing the estate, the personal representative shall deed the interest subject to the lien to
4.13 the remaindermen or surviving joint tenants as their interests may appear. Upon recording
4.14 or filing, the deed shall work a merger of the recipient's life estate or joint tenancy interest,
4.15 subject to the lien, into the remainder interest or interest the decedent and others owned
4.16 jointly. The lien shall attach to and run with the property to the extent of the decedent's
4.17 interest at the time of the decedent's death.

4.18 Sec. 2. Minnesota Statutes 2006, section 256B.15, subdivision 1i, is amended to read:

4.19 Subd. 1i. **Estates of persons receiving medical assistance and survived by**
4.20 **others.** (a) For purposes of this subdivision, the person's estate consists of the person's
4.21 probate estate and all of the person's interests in real property the person owned as a life
4.22 tenant or a joint tenant at the time of the person's death and the person's legal title or
4.23 interest at the time of the person's death in real property transferred to a beneficiary under
4.24 a transfer on death deed under section 507.071, or in the proceeds from the subsequent
4.25 sale of the person's interest in the transferred real property.

4.26 (b) Notwithstanding any law or rule to the contrary, this subdivision applies if a
4.27 person received medical assistance for which a claim could be filed under this section but
4.28 for the fact the person was survived by a spouse or by a person listed in subdivision 3, or if
4.29 subdivision 4 applies to a claim arising under this section.

4.30 (c) The person's life estate or joint tenancy interests in real property not subject to a
4.31 medical assistance lien under sections 514.980 to 514.985 on the date of the person's death
4.32 shall not end upon death and shall continue as provided in this subdivision. The life estate
4.33 in the estate shall be the portion of the interest in the property subject to the life estate that
4.34 is equal to the life estate percentage factor for the life estate as listed in the Life Estate
4.35 Mortality Table of the health care program's manual for a person who was the age of the

5.1 medical assistance recipient on the date of the person's death. The joint tenancy interest in
5.2 the estate shall be equal to the fractional interest the medical assistance recipient would
5.3 have owned in the jointly held interest in the property had they and the other owners held
5.4 title to the property as tenants in common on the date the medical assistance recipient died.

5.5 (d) The county agency shall file a claim in the estate under this section on behalf of
5.6 the claimant who shall be the commissioner of human services, notwithstanding that the
5.7 decedent is survived by a spouse or a person listed in subdivision 3. The claim, as allowed,
5.8 shall not be paid by the estate and shall be disposed of as provided in this paragraph.

5.9 The personal representative or the court shall make, execute, and deliver a lien in favor
5.10 of the claimant on the decedent's interest in real property in the estate in the amount of
5.11 the allowed claim on forms provided by the commissioner to the county agency filing the
5.12 lien. The lien shall bear interest as provided under section 524.3-806, shall attach to the
5.13 property it describes upon filing or recording, and shall remain a lien on the real property
5.14 it describes for a period of 20 years from the date it is filed or recorded. The lien shall be a
5.15 disposition of the claim sufficient to permit the estate to close.

5.16 (e) The state or county agency shall file or record the lien in the office of the
5.17 county recorder or registrar of titles for each county in which any of the real property is
5.18 located. The recorder or registrar of titles shall accept the lien for filing or recording. All
5.19 recording or filing fees shall be paid by the Department of Human Services. The recorder
5.20 or registrar of titles shall mail the recorded lien to the Department of Human Services.
5.21 The lien need not be attested, certified, or acknowledged as a condition of recording or
5.22 filing. Upon recording or filing of a lien against a life estate or a joint tenancy interest,
5.23 the interest subject to the lien shall merge into the remainder interest or the interest the
5.24 recipient and others owned jointly. The lien shall attach to and run with the property to
5.25 the extent of the decedent's interest in the property at the time of the decedent's death
5.26 as determined under this section.

5.27 (f) The department shall make no adjustment or recovery under the lien until after the
5.28 decedent's spouse, if any, has died, and only at a time when the decedent has no surviving
5.29 child described in subdivision 3. The estate, any owner of an interest in the property
5.30 which is or may be subject to the lien, or any other interested party, may voluntarily pay
5.31 off, settle, or otherwise satisfy the claim secured or to be secured by the lien at any time
5.32 before or after the lien is filed or recorded. Such payoffs, settlements, and satisfactions
5.33 shall be deemed to be voluntary repayments of past medical assistance payments for the
5.34 benefit of the deceased recipient, and neither the process of settling the claim, the payment
5.35 of the claim, or the acceptance of a payment shall constitute an adjustment or recovery
5.36 that is prohibited under this subdivision.

6.1 (g) The lien under this subdivision may be enforced or foreclosed in the manner
6.2 provided by law for the enforcement of judgment liens against real estate or by a
6.3 foreclosure by action under chapter 581. When the lien is paid, satisfied, or otherwise
6.4 discharged, the state or county agency shall prepare and file a release of lien at its own
6.5 expense. No action to foreclose the lien shall be commenced unless the lien holder has first
6.6 given 30 days' prior written notice to pay the lien to the owners and parties in possession
6.7 of the property subject to the lien. The notice shall: (1) include the name, address, and
6.8 telephone number of the lien holder; (2) describe the lien; (3) give the amount of the lien;
6.9 (4) inform the owner or party in possession that payment of the lien in full must be made
6.10 to the lien holder within 30 days after service of the notice or the lien holder may begin
6.11 proceedings to foreclose the lien; and (5) be served by personal service, certified mail,
6.12 return receipt requested, ordinary first class mail, or by publishing it once in a newspaper
6.13 of general circulation in the county in which any part of the property is located. Service of
6.14 the notice shall be complete upon mailing or publication.

6.15 Sec. 3. Minnesota Statutes 2006, section 272.12, is amended to read:

6.16 **272.12 CONVEYANCES, TAXES PAID BEFORE RECORDING.**

6.17 When:

6.18 (a) a deed or other instrument conveying land,

6.19 (b) a plat of any town site or addition thereto,

6.20 (c) a survey required pursuant to section 508.47,

6.21 (d) a condominium plat subject to chapter 515 or 515A or a declaration that contains
6.22 such a plat, or

6.23 (e) a common interest community plat subject to chapter 515B or a declaration
6.24 that contains such a plat,

6.25 is presented to the county auditor for transfer, the auditor shall ascertain from the records
6.26 if there be taxes delinquent upon the land described therein, or if it has been sold for
6.27 taxes. An assignment of a sheriff's or referee's certificate of sale, when the certificate of
6.28 sale describes real estate, and certificates of redemption from mortgage or lien foreclosure
6.29 sales, when the certificate of redemption encompasses real estate and is issued to a junior
6.30 creditor, are considered instruments conveying land for the purposes of this section and
6.31 section 272.121. If there are taxes delinquent, the auditor shall certify to the same; and
6.32 upon payment of such taxes, or in case no taxes are delinquent, shall transfer the land upon
6.33 the books of the auditor's office, and note upon the instrument, over official signature, the
6.34 words, "no delinquent taxes and transfer entered," or, if the land described has been sold
6.35 or assigned to an actual purchaser for taxes, the words "paid by sale of land described

7.1 within;" and, unless such statement is made upon such instrument, the county recorder or
7.2 the registrar of titles shall refuse to receive or record the same; provided, that sheriff's or
7.3 referees' certificates of sale on execution or foreclosure of a lien or mortgage, certificates
7.4 of redemption from mortgage or lien foreclosure sales issued to the redeeming mortgagor
7.5 or lienee, deeds of distribution made by a personal representative in probate proceedings,
7.6 transfer on death deeds under section 507.071, decrees and judgments, receivers receipts,
7.7 patents, and copies of town or statutory city plats, in case the original plat filed in the
7.8 office of the county recorder has been lost or destroyed, and the instruments releasing,
7.9 removing and discharging reversionary and forfeiture provisions affecting title to land
7.10 and instruments releasing, removing or discharging easement rights in land or building or
7.11 other restrictions, may be recorded without such certificate; and, provided that instruments
7.12 conveying land and, as appurtenant thereto an easement over adjacent tract or tracts of
7.13 land, may be recorded without such certificate as to the land covered by such easement;
7.14 and provided further, that any instrument granting an easement made in favor of any
7.15 public utility or pipe line for conveying gas, liquids or solids in suspension, in the nature
7.16 of a right-of-way over, along, across or under a tract of land may be recorded without such
7.17 certificate as to the land covered by such easement. Documents governing homeowners
7.18 associations of condominiums, townhouses, common interest ownership communities,
7.19 and other planned unit developments may be recorded without the auditor's certificate to
7.20 the extent provided in section 515B.1-116(f).

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

7.27 A violation of this section by the county recorder or the registrar of titles shall
7.28 be a gross misdemeanor, and, in addition to the punishment therefor, the recorder or
7.29 registrar shall be liable to the grantee of any instrument so recorded for the amount of
7.30 any damages sustained.

7.31 When, as a condition to permitting the recording of deed or other instrument
7.32 affecting the title to real estate previously forfeited to the state under the provisions of
7.33 sections 281.16 to 281.25, county officials, after such real estate has been purchased or
7.34 repurchased, have required the payment of taxes erroneously assumed to have accrued
7.35 against such real estate after forfeiture and before the date of purchase or repurchase, the
7.36 sum required to be so paid shall be refunded to the persons entitled thereto out of moneys

8.1 in the funds in which the sum so paid was placed. Delinquent taxes are those taxes deemed
8.2 delinquent under section 279.02.

8.3 Sec. 4. Minnesota Statutes 2006, section 287.22, is amended to read:

8.4 **287.22 EXEMPTIONS.**

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

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

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

8.11 (3) A will;

8.12 (4) A plat;

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

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

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

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

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

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

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

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

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

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

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

8.31 Sec. 5. **[507.071] TRANSFER ON DEATH DEEDS.**

8.32 Subdivision 1. Definitions. For the purposes of this section the following terms
8.33 have the meanings given:

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

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

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

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

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

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

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

9.20 **Subd. 2. Effect of transfer on death deed.** A deed that conveys or assigns an
9.21 interest in real property, including a mortgage, judgment, or any other lien on real property,
9.22 to a grantee beneficiary and that expressly states that the deed is only effective on the
9.23 death of one or more of the grantor owners, transfers the interest to the grantee beneficiary
9.24 upon the death of the grantor owner upon whose death the conveyance or transfer is stated
9.25 to be effective, but subject to the survivorship provisions and requirements of section
9.26 524.2-702. A transfer on death deed must comply with all provisions of Minnesota law
9.27 applicable to deeds of real property including, but not limited to, the provisions of sections
9.28 507.02, 507.24, 507.34, 508.48, and 508A.48.

9.29 **Subd. 3. Rights of creditors and rights of the state and county under sections**
9.30 **246.53, 256B.15, 256D.16, 261.04, and 514.981.** The interest transferred to a beneficiary
9.31 under a transfer on death deed after the death of a grantor owner is transferred subject
9.32 to all effective conveyances, assignments, contracts, mortgages, deeds of trust, liens,
9.33 security pledges, judgments, tax liens, and other encumbrances made by the grantor owner
9.34 or to which the property was subject during the grantor owner's lifetime, including but
9.35 not limited to, any claim by a surviving spouse or any claim or lien by the state or county
9.36 agency authorized by section 246.53, 256B.15, 256D.16, 261.04, or 514.981, if other

10.1 assets of the deceased owner's estate are insufficient to pay the amount of any such claim.
10.2 A beneficiary to whom the interest is transferred after the death of a grantor owner shall be
10.3 liable to account to the state or county agency with a claim or lien authorized by section
10.4 246.53, 256B.15, 256D.16, 261.04, or 514.981, to the extent necessary to discharge any
10.5 such claim remaining unpaid after application of the assets of the deceased grantor owner's
10.6 estate, but such liability shall be limited to the value of the interest transferred to the
10.7 beneficiary. To show compliance with this subdivision and subdivision 23, a beneficiary
10.8 must record a clearance certificate issued in accordance with subdivision 23 in each county
10.9 in which the real property described in the transfer on death deed is located.

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

10.13 Subd. 5. **Successor grantee beneficiaries.** A transfer on death deed may designate
10.14 one or more successor grantee beneficiaries or a class of successor grantee beneficiaries,
10.15 or both. If the transfer on death deed designates successor grantee beneficiaries or a class
10.16 of successor grantee beneficiaries, the deed shall state the condition under which the
10.17 interest of the successor grantee beneficiaries would vest.

10.18 Subd. 6. **Multiple joint tenant grantors.** If an interest in real property is owned
10.19 as joint tenants, a transfer on death deed executed by all of the owners that conveys an
10.20 interest in real property to one or more grantee beneficiaries transfers the interest to the
10.21 grantee beneficiary or beneficiaries effective only after the death of the last surviving
10.22 grantor owner. If the last surviving joint tenant owner did not execute the transfer on death
10.23 deed, the deed is ineffective to transfer any interest and the deed is void. An estate in joint
10.24 tenancy is not severed or affected by the subsequent execution of a transfer on death deed
10.25 and the right of a surviving joint tenant owner who did not execute the transfer on death
10.26 deed shall prevail over a grantee beneficiary named in a transfer on death deed unless the
10.27 deed specifically states that it severs the joint tenancy ownership.

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

10.31 Subd. 8. **Recording requirements and authorization.** A transfer on death deed
10.32 is valid if the deed is recorded in a county in which at least a part of the real property
10.33 described in the deed is located and is recorded before the death of the grantor owner
10.34 upon whose death the conveyance or transfer is effective. A transfer on death deed is not
10.35 effective for purposes of section 507.34, 508.47, or 508A.47 until the deed is recorded
10.36 in the county in which the real property is located. When a transfer on death deed is

11.1 presented for recording, no certification by the county auditor as to transfer of ownership
11.2 and current and delinquent taxes shall be required or made and the transfer on death deed
11.3 shall not be required to be accompanied by a certificate of real estate value. A transfer
11.4 on death deed that otherwise satisfies all statutory requirements for recording may be
11.5 recorded and shall be accepted for recording in the county in which the property described
11.6 in the deed is located. If any part of the property described in the transfer on death deed
11.7 is registered property, the registrar of titles shall accept the transfer on death deed for
11.8 recording only if at least one of the grantors who executes the transfer on death deed
11.9 appears of record to have an ownership interest in the property described in the deed. No
11.10 certification or approval of a transfer on death deed shall be required of the examiner of
11.11 titles prior to recording of the deed in the office of the registrar of titles.

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

11.16 Subd. 10. **Revocation or modification of transfer on death deed.** (a) A transfer
11.17 on death deed may be revoked at any time by the grantor owner or, if there is more than
11.18 one grantor owner, by any of the grantor owners. To be effective, the revocation must
11.19 be recorded in the county in which at least a part of the real property is located before
11.20 the death of the grantor owner or owners who execute the revocation. The revocation is
11.21 not effective for purposes of section 507.34, 508.47, or 508A.47 until the revocation is
11.22 recorded in the county in which the real property is located. Subject to subdivision 6, if
11.23 the real property is owned as joint tenants and if the revocation is not executed by all of
11.24 the grantor owners, the revocation is not effective unless executed by the last surviving
11.25 grantor owner.

11.26 (b) If a grantor owner conveys to a third party, subsequent to the recording of the
11.27 transfer on death deed, by means other than a transfer on death deed, all or a part of such
11.28 grantor owner's interest in the property described in the transfer on death deed, no transfer
11.29 of the conveyed interest shall occur on such grantor owner's death and the transfer on
11.30 death deed shall be ineffective as to the conveyed or transferred interests, but the transfer
11.31 on death deed remains effective with respect to the conveyance or transfer on death of
11.32 any other interests described in the transfer on death deed owned by the grantor owner
11.33 at the time of the grantor owner's death.

11.34 (c) A transfer on death deed is a "governing instrument" within the meaning of
11.35 section 524.2-804 and, except as may otherwise be specifically provided for in the

12.1 transfer on death deed, is subject to the same provisions as to revocation, revival, and
12.2 nonrevocation set forth in section 524.2-804.

12.3 Subd. 11. **Antilapse; deceased beneficiary; words of survivorship.** (a) If a grantee
12.4 beneficiary who is a grandparent or lineal descendant of a grandparent of the grantor
12.5 owner fails to survive the grantor owner, the issue of the deceased grantee beneficiary who
12.6 survive the grantor owner take in place of the deceased grantee beneficiary. If they are all
12.7 of the same degree of kinship to the deceased grantee beneficiary, they take equally. If
12.8 they are of unequal degree, those of more remote degree take by right of representation.

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

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

12.20 Subd. 13. **Multiple transfer on death deeds.** If a grantor owner executes and
12.21 records more than one transfer on death deed conveying the same interest in real property
12.22 or a greater interest in the real property, the transfer on death deed that has the latest
12.23 acknowledgment date and that is recorded before the death of the grantor owner upon
12.24 whose death the conveyance or transfer is conditioned is the effective transfer on death
12.25 deed and all other transfer on death deeds, if any, executed by the grantor owner or the
12.26 grantor owners are ineffective to transfer any interest and are void.

12.27 Subd. 14. **Nonademption; unpaid proceeds of sale, condemnation, or insurance;**
12.28 **sale by conservator or guardian.** If at the time of the death of the grantor owner upon
12.29 whose death the conveyance or transfer is stated to be effective, the grantor owner did
12.30 not own a part or all of the real property described in the transfer on death deed, no
12.31 conveyance or transfer to the beneficiary of the nonowned part of the real property shall
12.32 occur upon the death of the grantor owner and the transfer on death deed is void as to the
12.33 nonowned part of the real property, but the beneficiary shall have the same rights to unpaid
12.34 proceeds of sale, condemnation or insurance, and, if sold by a conservator or guardian
12.35 of the grantor owner during the grantor owner's lifetime, the same rights to a general
12.36 pecuniary devise, as that of a specific devisee as set forth in section 524.2-606.

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

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

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

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

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

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

13.31 Subd. 21. **After-acquired property.** Except as provided in this subdivision, a
13.32 transfer on death deed is not effective to transfer any interest in real property acquired by a
13.33 grantor owner subsequent to the date of signing of a transfer on death deed. A grantor
13.34 owner may provide by specific language in a transfer on death deed that the transfer on
13.35 death deed will apply to any interest in the described property acquired by the grantor
13.36 owner after the signing or recording of the deed.

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

14.7 Subd. 23. **Clearance for public assistance claims and liens.** Any person claiming
14.8 an interest in real property conveyed or transferred by a transfer on death deed, or the
14.9 person's attorney or other agent, may apply to the county agency in the county in which
14.10 the real property is located for a clearance certificate for the real property described in
14.11 the transfer on death deed. The application for a clearance certificate and the clearance
14.12 certificate itself must contain the legal description of each parcel of real property to be
14.13 covered by the clearance certificate. The county agency shall provide enough clearance
14.14 certificates to allow a clearance certificate to be recorded in each county in which the real
14.15 property described in the transfer on death deed is located. The real property described
14.16 in the clearance certificate shall be bound by any conditions or other requirements
14.17 imposed by the county agency as specified in the clearance certificate. If the real property
14.18 is registered property, a new certificate of title shall not be issued until the clearance
14.19 certificate is recorded. If the clearance certificate shows the continuation of a medical
14.20 assistance claim or lien after issuance of the clearance certificate, the real property shall
14.21 remain subject to the claim or lien, and if the real property is registered property the
14.22 clearance certificate shall be carried forward as a memorial in any new certificate of title.
14.23 The application shall contain the same information and shall be submitted, processed,
14.24 and resolved in the same manner and on the same terms and conditions as provided in
14.25 section 525.313 for a clearance certificate in a decree of descent proceeding, except
14.26 that a copy of a notice of hearing does not have to accompany the application. The
14.27 application may contain a statement that the applicant, after reasonably diligent inquiry,
14.28 is not aware of the existence of a predeceased spouse or the existence of a claim which
14.29 could be recovered under section 246.53, 256B.15, 256D.16, 261.04, or 514.981. If the
14.30 county agency determines that a claim or lien exists under section 246.53, 256B.15,
14.31 256D.16, 261.04, or 514.981, the provisions of section 525.313 shall apply to collection,
14.32 compromise, and settlement of the claim or lien. A person claiming an interest in real
14.33 property transferred or conveyed by a transfer on death deed may petition or move the
14.34 district court, as appropriate, in the county in which the real property is located or in the
14.35 county in which a probate proceeding affecting the estate of the grantor of the transfer on
14.36 death deed is pending, for an order allowing sale of the real property free and clear of any

15.1 public assistance claim or lien but subject to disposition of the sale proceeds as provided
 15.2 in section 525.313. On a showing of good cause and subject to such notice as the court
 15.3 may require, the court without hearing may issue an order allowing the sale free and clear
 15.4 of any public assistance claim or lien on such terms and conditions as the court deems
 15.5 advisable to protect the interests of the state or county agency.

15.6 Subd. 24. **Form of transfer on death deed.** A transfer on death deed may be
 15.7 substantially in the following form:

15.8 Transfer on Death Deed

15.9 I (we) _____ (grantor owner or owners and spouses,
 15.10 if any, with marital status designated), grantor(s), hereby convey(s) and
 15.11 quitclaim(s) to _____ (grantee beneficiary, whether one
 15.12 or more) effective (check only one of the following)

15.13 _____ on the death of the grantor owner, if only one grantor is named above, or
 15.14 on the death of the last of the grantor owners to die, if more than one grantor
 15.15 owner is named above, or

15.16 _____ on the death of (name of grantor owner)

15.17 _____ (must be one of the grantor owners named above),
 15.18 the following described real property:

15.19 (Legal description)

15.20 If checked, the following optional statement applies:

15.21 _____ When effective, this instrument conveys any and all interests in the
 15.22 described real property acquired by the grantor owner(s) before, on, or after the
 15.23 date of this instrument.

15.24 _____
 15.25 (Signature of grantor(s))
 15.26 (acknowledgment)

15.27 Subd. 25. **Form of instrument of revocation.** An instrument of revocation may be
 15.28 substantially in the following form:

15.29 Revocation of Transfer on Death Deed

15.30 The undersigned hereby revokes the transfer on death deed recorded on
 15.31 _____, _____, as Document No. _____ (or in Book _____
 15.32 of _____, Page _____) in the office of the (County Recorder) (Registrar of
 15.33 Titles) of _____ County, Minnesota, affecting real property legally
 15.34 described as follows:

16.1 (legal description)

16.2 Dated:

16.3 _____

16.4 Signature

16.5 (acknowledgment)

16.6 Sec. 6. Minnesota Statutes 2006, section 508.52, is amended to read:

16.7 **508.52 CONVEYANCE; CANCELLATION OF OLD AND ISSUANCE OF**
16.8 **NEW CERTIFICATE.**

16.9 An owner of registered land who desires to convey the land, or a portion thereof, in
16.10 fee, shall execute a deed of conveyance, and ~~file~~ record the deed with the registrar. The
16.11 deed of conveyance shall be ~~filed~~ recorded and endorsed with the number and place of
16.12 registration of the certificate of title. Before canceling the outstanding certificate of title
16.13 the registrar shall show by memorial thereon the registration of the deed on the basis of
16.14 which it is canceled. The encumbrances, claims, or interests adverse to the title of the
16.15 registered owner shall be stated upon the new certificate, except so far as they may be
16.16 simultaneously released or discharged. The registrar shall not carry forward as a memorial
16.17 on the new certificate of title any memorials of a transfer on death deed if the grantors of
16.18 the transfer on death deed retain no fee interest in the land covered by the new certificate.
16.19 The certificate of title shall be marked "Canceled" by the registrar, who shall enter in the
16.20 register a new certificate of title to the grantee and prepare and deliver to the grantee a
16.21 copy of the new certificate of title. If a deed in fee is for a portion of the land described in
16.22 a certificate of title, the memorial of the deed entered by the registrar shall include the
16.23 legal description contained in the deed and the registrar shall enter a new certificate of title
16.24 to the grantee for the portion of the land conveyed and, except as otherwise provided in
16.25 this section, issue a residue certificate of title to the grantor for the portion of the land not
16.26 conveyed. The registrar shall prepare and deliver to each of the parties a copy of their
16.27 respective certificates of title. In lieu of canceling the grantor's certificate of title and
16.28 issuing a residue certificate to the grantor for the portion of the land not conveyed, the
16.29 registrar may if the grantor's deed does not divide a parcel of unplatted land, and in the
16.30 absence of a request to the contrary by the registered owner, mark by the land description
16.31 on the certificate of title "Part of land conveyed, see memorials." The fee for a residue
16.32 certificate of title shall be paid to the registrar only when the grantor's certificate of title
16.33 is canceled after the conveyance by the grantor of a portion of the land described in the
16.34 grantor's certificate of title. When two or more successive conveyances of the same
16.35 property are filed for registration on the same day the registrar may enter a certificate

17.1 in favor of the grantee or grantees in the last of the successive conveyances, and the
17.2 memorial of the previous deed or deeds entered on the prior certificate of title shall have
17.3 the same force and effect as though the prior certificate of title had been entered in favor
17.4 of the grantee or grantees in the earlier deed or deeds in the successive conveyances. The
17.5 fees for the registration of the earlier deed or deeds shall be the same as the fees prescribed
17.6 for the entry of memorials. The registrar of titles, with the consent of the transferee, may
17.7 mark "See memorials for new owner(s)" by the names of the registered owners on the
17.8 certificate of title and also add to the memorial of the transferring conveyance a statement
17.9 that the memorial shall serve in lieu of a new certificate of title in favor of the grantee or
17.10 grantees therein noted and may refrain from canceling the certificate of title until the time
17.11 it is canceled by a subsequent transfer, and the memorial showing such transfer of title
17.12 shall have the same effect as the entry of a new certificate of title for the land described in
17.13 the certificate of title; the fee for the registration of a conveyance without cancellation of
17.14 the certificate of title shall be the same as the fee prescribed for the entry of a memorial.

17.15 Sec. 7. Minnesota Statutes 2006, section 508A.52, is amended to read:

17.16 **508A.52 CONVEYANCE; CANCELLATION OF OLD AND ISSUANCE OF**
17.17 **NEW CPT.**

17.18 An owner of land registered under sections 508A.01 to 508A.85 who desires to
17.19 convey the land, or a portion of it, in fee, shall execute a deed of conveyance, and ~~file~~
17.20 record the deed with the registrar. The deed of conveyance shall be ~~filed~~ recorded and
17.21 endorsed with the number and place of registration of the CPT. Before canceling the
17.22 outstanding CPT, the registrar shall show by memorial on it the registration of the deed on
17.23 the basis of which it is canceled. The encumbrances, claims, or interests adverse to the
17.24 title of the registered owner shall be stated upon the new CPT, except so far as they may be
17.25 simultaneously released or discharged. The registrar shall not carry forward as a memorial
17.26 on the new CPT any memorials of a transfer on death deed if the grantors of the transfer
17.27 on death deed retain no fee interest in the real property covered by the new CPT. The CPT
17.28 shall be marked "Canceled" by the registrar, who shall enter in the register a new CPT
17.29 to the grantee, and prepare and deliver to the grantee a copy of the new CPT. If a deed
17.30 in fee is for a portion of the land described in a CPT, the memorial of the deed entered
17.31 by the registrar shall include the legal description contained in the deed and the registrar
17.32 shall enter a new CPT to the grantee for the portion of the land conveyed and, except as
17.33 otherwise provided in this section, issue a residue CPT to the grantor for the portion of
17.34 the land not conveyed. The registrar shall prepare and deliver to each of the parties a
17.35 copy of their respective ~~CPTs~~ CPT's. In lieu of canceling the grantor's CPT and issuing a

18.1 residue CPT to the grantor for the portion of the land not conveyed, the registrar may if the
18.2 grantor's deed does not divide a parcel of unplatted land, and in the absence of a request to
18.3 the contrary by the registered owner, mark by the land description on the CPT "Part of
18.4 land conveyed, see memorials." The fee for a residue CPT shall be paid to the registrar
18.5 only when the grantor's CPT is canceled after the conveyance by the grantor of a portion
18.6 of the land described in the grantor's CPT. When two or more successive conveyances
18.7 of the same property are filed for registration on the same day the registrar may enter a
18.8 CPT in favor of the grantee or grantees in the last of the successive conveyances, and the
18.9 memorial of the previous deed or deeds entered on the prior CPT shall have the same force
18.10 and effect as though the prior CPT had been entered in favor of the grantee or grantees in
18.11 the earlier deed or deeds in the successive conveyances. The fees for the registration of the
18.12 earlier deed or deeds shall be the same as the fees prescribed for the entry of memorials.
18.13 The registrar of titles, with the consent of the transferee, may mark "See memorials for
18.14 new owner(s)" by the names of the registered owners on the CPT and also add to the
18.15 memorial of the transferring conveyance a statement that the memorial shall serve in lieu
18.16 of a new CPT in favor of the grantee or grantees noted in it and may refrain from canceling
18.17 the CPT until the time it is canceled by a subsequent transfer, and the memorial showing
18.18 the transfer of title shall have the same effect as the entry of a new CPT for the land
18.19 described in the CPT. The fee for the registration of a conveyance without cancellation of
18.20 the CPT shall be the same as the fee prescribed for the entry of a memorial.

18.21 Sec. 8. Minnesota Statutes 2006, section 524.2-702, is amended to read:

18.22 **524.2-702 REQUIREMENT OF SURVIVAL FOR 120 HOURS FOR**
18.23 **DEVISEES, BENEFICIARIES OF CERTAIN TRUSTS, AND APPOINTEES OF**
18.24 **CERTAIN POWERS OF APPOINTMENT; SIMULTANEOUS DEATH ACT FOR**
18.25 **OTHER CASES.**

18.26 (a) **Requirement of survival for 120 hours.** A beneficiary of a trust in which
18.27 the grantor has reserved a power to alter, amend, revoke, or terminate the provisions of
18.28 the trust who fails to survive the grantor by 120 hours, a devisee who fails to survive
18.29 the testator by 120 hours, a beneficiary named in a transfer on death deed under
18.30 section 507.071 who fails to survive by 120 hours the grantor owner upon whose death
18.31 the conveyance to the beneficiary becomes effective, or an appointee of a power of
18.32 appointment taking effect at the death of the holder of the power who fails to survive the
18.33 holder of the power by 120 hours is deemed to have predeceased the grantor, grantor
18.34 owner testator, or holder of the power for purposes of determining title to property passing

19.1 by the trust instrument, by the testator's will, by the transfer on death deed, or by the
19.2 exercise of the power of appointment.

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

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

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

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

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

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

19.32 **Sec. 9. EFFECTIVE DATE.**

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

20.1

ARTICLE 2

20.2

MISCELLANEOUS

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

20.5 Subd. 2. **Original signatures required.** (a) Unless otherwise provided by law, an
20.6 instrument affecting real estate that is to be recorded as provided in this section or other
20.7 applicable law must contain the original signatures of the parties who execute it and of the
20.8 notary public or other officer taking an acknowledgment. However, a financing statement
20.9 that is recorded as a filing pursuant to section 336.9-502(b) need not contain: (1) the
20.10 signatures of the debtor or the secured party; or (2) an acknowledgment. An instrument
20.11 acknowledged in a representative capacity as defined in section 358.41 on behalf of a
20.12 corporation, partnership, limited liability company, or trust that is otherwise entitled to
20.13 be recorded shall be recorded if the acknowledgment made in a representative capacity
20.14 is substantially in the form prescribed in chapter 358, without further inquiry into the
20.15 authority of the person making the acknowledgment.

20.16 (b)(1) Any electronic instruments, including signatures and seals, affecting real
20.17 estate may only be recorded as part of a pilot project for the electronic filing of real
20.18 estate documents implemented by the task force created in Laws 2000, chapter 391, or
20.19 by the Electronic Real Estate Recording Task Force created under section 507.094. The
20.20 Electronic Real Estate Recording Task Force created under section 507.094 may amend
20.21 standards set by the task force created in Laws 2000, chapter 391, and may set new or
20.22 additional standards and establish pilot projects to the full extent permitted in section
20.23 507.094, subdivision 2, paragraph (b). Documents recorded in conformity with those
20.24 standards and in those pilot projects are deemed to meet the requirements of this section.

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

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

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

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

20.32 (A) the document to be recorded or filed is of a type included in the pilot project
20.33 for the electronic filing of real estate documents under the task force created in Laws
20.34 2000, chapter 391;

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

- 21.1 (C) the county uses software that was validated by the task force; and
- 21.2 (D) the task force created under section 507.094, votes to accept a written
- 21.3 certification of compliance with paragraph (b), clause (2), of this section by the county
- 21.4 board and county recorder of the county to implement electronic filing under this section.
- 21.5 (c) Notices filed pursuant to section 168A.141, subdivisions 1 and 3, need not
- 21.6 contain an acknowledgment.

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

21.8 **508.02 REGISTERED LAND; SAME INCIDENTS AS UNREGISTERED;**

21.9 **NO ADVERSE POSSESSION.**

21.10 Registered land shall be subject to the same burdens and incidents which attach by

21.11 law to unregistered land. This chapter shall not operate to relieve registered land or the

21.12 owners thereof from any rights, duties, or obligations incident to or growing out of the

21.13 marriage relation, or from liability to attachment on mesne process, or levy on execution,

21.14 or from liability to any lien or charge of any description, created or established by law

21.15 upon the land or the buildings situated thereon, or the interest of the owner in such land

21.16 or buildings. It shall not operate to change the laws of descent or the rights of partition

21.17 between cotenants, or the right to take the land by eminent domain. It shall not operate to

21.18 relieve such land from liability to be taken or recovered by any assignee or receiver under

21.19 any provision of law relative thereto, and shall not operate to change or affect any other

21.20 rights, burdens, liabilities, or obligations created by law and applicable to unregistered

21.21 land except as otherwise expressly provided herein. No title to registered land in

21.22 derogation of that of the registered owner shall be acquired by prescription or by adverse

21.23 possession, but the common law doctrine of practical location of boundaries applies

21.24 to registered land whenever registered. Section 508.671 shall apply in a proceedings

21.25 subsequent to establish a boundary by practical location for registered land.

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

21.27 **508.48 INSTRUMENTS AFFECTING TITLE FILED WITH REGISTRAR;**

21.28 **NOTICE.**

21.29 (a) Every conveyance, lien, attachment, order, decree, or judgment, or other

21.30 instrument or proceeding, which would affect the title to unregistered land under existing

21.31 laws, if recorded, or filed with the county recorder, shall, in like manner, affect the title to

21.32 registered land if filed and registered with the registrar in the county where the real estate

21.33 is situated, and shall be notice to all persons from the time of such registering or filing

21.34 of the interests therein created. Neither the reference in a registered instrument to an

22.1 unregistered instrument or interest nor the joinder in a registered instrument by a party or
22.2 parties with no registered interest shall constitute notice, either actual or constructive, of
22.3 an unregistered interest.

22.4 (b) An instrument acknowledged in a representative capacity as defined in section
22.5 358.41 on behalf of a corporation, partnership, limited liability company, or trust that is
22.6 otherwise entitled to be recorded shall be recorded if the acknowledgment made in a
22.7 representative capacity is substantially in the form prescribed in chapter 358, without
22.8 further inquiry into the authority of the person making the acknowledgment.

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

22.10 Subdivision 1. **Petition.** An owner of registered land having one or more common
22.11 boundaries with registered or unregistered land or an owner of unregistered land having
22.12 one or more common boundaries with registered land may apply by a duly verified petition
22.13 to the court to have all or some of the common boundary lines judicially determined. The
22.14 petition shall contain the full names and post office addresses of all owners of adjoining
22.15 lands which are in any manner affected by the boundary determination. At the time of
22.16 the filing of the petition with the court administrator, a copy of it, duly certified by the
22.17 court administrator, shall be filed for record with the county recorder. If any of the
22.18 adjoining lands are registered, the certified copy of the petition also shall be filed with the
22.19 registrar of titles and entered as a memorial on the certificate of title for those lands. When
22.20 recorded or filed, the certified copy of the petition shall be notice forever to purchasers
22.21 and encumbrancers of the pendency of the proceeding and of all matters referred to in the
22.22 court files and records pertaining to the proceeding. The owner shall have the premises
22.23 surveyed by a licensed land surveyor and shall file in the proceedings a plat of the survey
22.24 showing the correct location of the boundary line or lines to be determined. There also
22.25 shall be filed with the court administrator a memorandum abstract, satisfactory to the
22.26 examiner, showing the record owners and encumbrancers of the adjoining lands which
22.27 are in any manner affected by the boundary line determination. The petition shall be
22.28 referred to the examiner of titles for examination and report in the manner provided for the
22.29 reference of initial applications for registration. Notice of the proceeding shall be given to
22.30 all interested persons by the service of a summons which shall be issued in the form and
22.31 served in the manner as in initial applications.

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

22.33 Subdivision 1. **Effect of registration.** Land registered under sections 508A.01 to
22.34 508A.85 shall be registered subject to the rights of persons in possession, if any, and rights

23.1 which would be disclosed by a survey, except that no title in derogation of that of the
23.2 registered owner shall be acquired by prescription or adverse possession after the date
23.3 of the first CPT; otherwise, land registered under sections 508A.01 to 508A.85 shall be
23.4 subject to the same rights, protections, burdens, and incidents which attach by law to
23.5 lands as provided in section 508.02. The common law doctrine of practical location of
23.6 boundaries applies to property registered under sections 508A.01 to 508A.85 whenever
23.7 registered. Section 508.671 shall apply in a proceedings subsequent to establish a
23.8 boundary by practical location for property registered under sections 508A.01 to 508A.85.

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

23.10 **508A.48 FILED INSTRUMENT AFFECTING TITLE IS NOTICE.**

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

23.20 (b) An instrument acknowledged in a representative capacity as defined in section
23.21 358.41 on behalf of a corporation, partnership, limited liability company, or trust that is
23.22 otherwise entitled to be recorded shall be recorded if the acknowledgment made in a
23.23 representative capacity is substantially in the form prescribed in chapter 358, without
23.24 further inquiry into the authority of the person making the acknowledgment.

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

23.26 **557.02 NOTICE OF LIS PENDENS.**

23.27 In all actions in which the title to, or any interest in or lien upon, real property is
23.28 involved or affected, or is brought in question by either party, any party thereto, at the time
23.29 of filing the complaint, or at any time thereafter during the pendency of such action, may
23.30 file for record with the county recorder of each county in which any part of the premises
23.31 lies a notice of the pendency of the action, containing the names of the parties, the object
23.32 of the action, and a description of the real property in such county involved, affected or
23.33 brought in question thereby. From the time of the filing of such notice, and from such time
23.34 only, the pendency of the action shall be notice to purchasers and encumbrancers of the

24.1 rights and equities of the party filing the same to the premises. When any pleading is
24.2 amended in such action, so as to alter the description of, or to extend the claim against,
24.3 the premises affected, a new notice may be filed, with like effect. Such notice shall be
24.4 recorded ~~in the same book and~~ in the same manner in which mortgages are recorded, and
24.5 may be discharged ~~by an entry to that effect in the margin of the record by the party filing~~
24.6 ~~the same, or the party's attorney, in the presence of the recorder, or by writing executed~~
24.7 ~~and acknowledged in the manner of conveyance, whereupon the recorder shall enter a~~
24.8 ~~minute thereof on the margin of such record.~~ The filing of such lis pendens at the time
24.9 of filing the complaint and before the commencement of the action shall have no force,
24.10 effect, or validity against the premises described in the lis pendens, unless the filing of the
24.11 complaint is followed by the service of the summons in the action within 90 days after the
24.12 filing of the complaint therein. Any party claiming any title or interest in or to the real
24.13 property involved or affected may on such notice as the court shall in each case prescribe,
24.14 make application to the district court in the county in which the action is pending or in
24.15 which the real property involved or affected is situated, for an order discharging the lis
24.16 pendens of record, when any such action has not been brought on for trial within two years
24.17 after the filing of the lis pendens and in case the court orders the lis pendens discharged
24.18 of record upon the filing of a certified copy of the order of the court in the office of the
24.19 county recorder, where the real property is situated, the lis pendens shall be void and of
24.20 no force nor effect.

24.21 Sec. 8. **EFFECTIVE DATE.**

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

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