

2006 STATE LEGISLATIVE TOPICS – MINNESOTA 2006

If your state legislature considered legislation affecting title insurance business requirements or operations, please underline the appropriate issue area.

I. CIVIL ACTIONS

- A. Dissolutions
- B. Statute of Limitations
- C. Appeals
- D. Statute of Frauds
- E. Receivership
- F. Estates and Probate
- G. Torts
- H. Consumer Protection
- I. Enforcement of Tax Lien
- J. Child Support Lien
- K. Courts

II. ENVIRONMENTAL ISSUES

- A. Wetlands
- B. Hazardous Waste
- C. Public Trust/Riparian Rights

III. ESCROWS

- A. Disclosures
- B. Funding
- C. Settlements
- D. Trusts Accounts

IV. INSURANCE/BUSINESS ISSUES

- A. Agents/Abstracter Licensing
- B. Forms/Rates Regulation/Fees/
Commission Splits
- C. Claims Administration Requirements
- D. Reinsurance
- E. Investment Risk Limitation and Tax Rules
- F. Limited Liability Companies
- G. NAIC
- H. Controlled Business
- I. Creditors' Rights
- J. Deceptive Trade Practices/
Anti-Kickback Laws
- K. Legal Ethics Opinions
- L. Bulk Sales
- M. Privacy
- N. Electronic Transactions
- O. Affiliated Business Arrangements

V. Statutory Liens

- A. Mechanics' Liens
- B. Judgment Liens
- C. Attachments
- D. Child Support Liens
- E. Attorney
- F. Estate Tax Liens

VI. TAXES

- A. Real Estate

- B. Transfer Taxes
- C. Subdivision

VII. PUBLIC ENTITIES

- A. Eminent Domain & Dedication
- B. Indians
- C. Sale of Municipal Lands
- D. Zoning

VIII. REAL PROPERTY INTERESTS

- A. Easements
- B. Streets and Highways
- C. Covenants, Conditions & Restrictions
- D. Adverse Possession
- E. Mineral Rights
- F. Husband & Wife/Community Property
- G. Condominiums
- H. Trusts
- I. Broker Regulations
- J. Subdivisions

IX. DEEDS AND SECURITY INTERESTS

- A. Assignments
- B. Financing Statements
- C. Conveyances/Deeds
- D. Foreclosures
- E. Mortgages/Deed of trust
- F. Reconveyances/Releases
- G. Leases
- H. Usury
- I. Tax Sales
- J. Deficiency Judgments
- K. Legal Description/Land Surveys
- L. Obligations

X. RECORDING

- A. Secretary of State
- B. Acknowledgment/Notary
- C. Recording Requirements
- D. Seals
- E. Recording Fees
- F. Automation
- G. Medicaid

2006 Minnesota Legislative Update
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Set forth below is a final summary of real estate-related bills that passed the Minnesota Legislature and were signed into law by Governor Pawlenty. The new laws take effect August 1, 2006 unless otherwise indicated.

1.(VII.A) Eminent Domain. (SF 2750/HF 2846). The legislation makes numerous changes to current eminent domain (condemnation) law codified as Minn. Stat. Chapter 117. Four changes are particularly significant.

- First, the legislation provides that eminent domain may only be used for a public use and defines public use as: (1) the possession, occupation, ownership, and enjoyment of the land by the general public, or by public agencies; (2) the creation or functioning of a public service corporation (which includes utilities, railroads, airports and other comparable entities); or (3) mitigation of a blighted area, remediation of an environmentally contaminated area, reduction of abandoned property, or removal of a public nuisance. The legislation specifically provides that the public benefits of economic development, including an increase in tax base, tax revenues, employment or general economic health, are not themselves a public use.
- Second, the legislation requires that if a taking is for the mitigation of a blighted area, remediation of an environmentally contaminated area, reduction of abandoned property or removal of a public nuisance, the condemning authority must show by a preponderance of the evidence that the taking is necessary and for the designated use.
- Third, compensation for loss of going concern must be paid unless a condemning authority can prove by a preponderance of the evidence that the loss is not due to the taking, that the loss could have been avoided with reasonable measures or that the going concern compensation would duplicate other compensation.
- Fourth, property owners will be able to receive their attorney's fees in certain cases. Where the takings award is more than \$25,000, a property owner may recover its fees if the final award is 20% greater than the condemning authority's last written offer before it files its petition, and shall recover its fees if the final award is 40% greater than the final award.

The new legislation has various effective dates.

2.(1.F) Certificate of Custodianship and Affidavit of Custodian in Real Property Transactions. (SF 2541/HF 3073)

This bill, codified as Minn. Stat. 501B.561 and 501B.571, provides for certificates of custodianship and affidavits of custodian similar in concept to certificates of trust and affidavits of trustee. It applies to custodianships established under federal law or Minnesota law but does not apply to custodianships governed by Minn. Stat. Chapter 527 (Uniform Transfer to Minors Act).

3.(IX.D) Taxes Paid by Party With No Interest in the Land. (HF 3073)

This bill amends Minn. Stat. 272.44 – 272.45 to prohibit parties who have no interest in the land from paying real property taxes on the land and obtaining a lien on the property. The purpose of this bill is to prevent sham redemption claims.

4.(I.A) Changes to Summary Real Estate Disposition Judgment Law. (HF 3073)

This bill amends Minn. Stat. 518.191, subdivision 2 to add four additional requirements to summary real estate disposition judgments:

- If the judgment and decree resulted from a stipulation, whether the real property was described by a legal description;
- If the judgment and decree resulted from a default, whether the petition contained the legal description for the property and whether disposition was made in accordance with the request to relief;
- Whether the summons and complaint were served personally upon the respondent pursuant to the Rules of Civil Procedure, Rule 4.03(a), or section 543.19; and
- If the summons and complaint were served on the respondent only by publication, the name of each legal newspaper and county in which the summons and petition were published and the dates of publication.

The bill also provides for the issuance of amended summary real estate disposition judgments on the court's own motion or on application by an interested person. Amended summary real estate disposition judgments may be issued to correct an erroneous legal description contained in the judgment and decree of dissolution or to add omitted property to a judgment and decree of dissolution provided "the court determines that the omitted property is an integral or appurtenant part of real property already properly included in the judgment and decree."

5.(1.F) Sale of Homestead of Decedent by Personal Representative. (HF 3073)

This bill amends Minn. Stat. 524.3-715 to legislatively overrule the unpublished and controversial opinion of *Hardon v. Patek*, 2003 WL 1908063, Minn. App., Apr. 2003. It clarifies that the personal representative can sell, mortgage or lease the homestead of the decedent without the consent of the devisee or heir unless the property has been specifically devised to a devisee or heir by the decedent's will. The decedent's spouse, however, must still consent in writing to the sale, mortgage or lease.

6.(V.B) Filing as to Status of Foreign Judgments. (HF 3073)

This bill amends Minn. Stat. 548.27 to provide that the time period for enforcement of foreign judgments transcribed to Minnesota begins with the date the judgment was originally entered in the foreign jurisdiction, and that Minnesota's ten-year judgment enforcement period applies rather than the time period of the foreign jurisdiction. This bill also provides that Minnesota's statutory interest rate on judgments is the applicable rate for foreign judgments transcribed to Minnesota.

7.(VIII.G) Changes to Minnesota Common Interest Community Law. (HF 3073)

The following changes have been made to the Minnesota Community Interest Community law codified as Minn. Stat. Chapter 515B:

- Minn. Stat. 515B.1-102 has been amended to provide that the delivery of a disclosure statement applies to any real estate subject to a master declaration.
- Minn. Stat. 515B.1-106(f) has been amended to provide that any local ordinance or charter provision prohibiting the conversion of buildings to the common interest community form of ownership shall not be effective for a period exceeding 18 months.
- Minn. Stat. 515B.2-1101(a)(2) regarding CIC plats for planned communities has been revised to add references to registered land surveys and Minn. Stat. Chapters 508 and 508A regarding Torrens property.
- Minn. Stat. 515B.2-112 has been modified slightly to change the procedures for a unit owner or owners to subdivide, combine or convert units.
- Minn. Stat. 515B.2-121(f)(1)(vii) has been amended to require that the master association declaration include a statement of the total number of units and other parcels of real estate intended for “private ownership and use” rather than for “residential use by a person or the person’s tenants.”
- Minn. Stat. 515B-4-101 regarding delivery of the disclosure statement has been amended to change the term “purchaser” to “buyer”.
- Minn. Stat. 515B.4-102 has been amended to change the purchaser’s period for review of the disclosure statement from five to ten days.

8.(X.C) County Recorder Document Standards and Fees. (SF 3105)

This bill amends the document standards set forth in Minn. Stat. 507.093 as follows:

- The first page of the document must contain a blank space at the top measuring 3 inches as well as a border of ½ inch at each side and the bottom.
- The right half of the 3 inch blank space is to be used for recording information and the left half is to be used for tax certification.
- Any person may add an administrative page before the first page of the document to accommodate the document standards. The administrative page may contain the document title, document date, and, if applicable, the grantor and grantee, and shall be deemed part of the document when recorded.

This bill also corrects and clarifies the recording fees charged by the registrar of titles for recording documents.

9.(III.C) Tribal Identification Cards. (SF 3132)

This bill, codified as Minn. Stat. 171.072, states that a tribal identification card is an acceptable form of identification under Minnesota law. A tribal identification card is defined as an unexpired identification card issued by a Minnesota tribal government of a tribe recognized by the Bureau of Indian Affairs and containing the legal name, date of birth, signature, and picture of the enrolled tribal member.

10.(I.H) Statutory Homeowner Warranty Claims. (SF1287)

This bill, codified as Minn. Stat. 327A.02, subdivision 2a and 4 and Minn. Stat. 322B.863, subdivision 4, provides that statutory homeowner warranty claims are not affected by the dissolution of the builder's or contractor's corporation or limited liability company.