

House Research Act Summary

CHAPTER: 50

SESSION: 2001 Regular Session

TOPIC: Real Property - Miscellaneous Changes

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Overview

The act makes changes to the Minnesota Common Interest Ownership Act (condominium law) and the laws on real property whose title is registered as Torrens land in the form of certificates of title and certificates of possessory title (CPT).

Section

- 1 **Creation of servitudes by common owner.** Lets a single owner of multiple tracts of land (like a housing developer) file a declaration creating covenants, conditions, and easements. Clarifies that the common law doctrine of merger does not defeat the declaration when it is filed.
- 2 **Amendment.** Amends the certificate of title statute. Lets someone who acquires the interest held in land by the original applicant for a certificate of title to be substituted for that applicant by filing an amendment. Excuses the substitute from paying a filing fee.
- 3 **Subscribed by administrator; copies.** Lets the attorney general choose whether to refer a case to the county attorney or to represent the state in Torrens title matters where the state is a defendant. Previously the attorney general had to refer these cases to the county attorney.
- 4 **Condominium certificate.** Provides for issuance of a certificate of title for the common elements of a condominium. Calls this a common elements certificate of title (CECT). Specifies the form of a CECT. Requires either a court determination or a written directive of the examiner of titles that the documents comply with the condominium statute. Provides the manner of keeping records of CECTs. Provides for issuance of a CECT for condominiums on registered land that existed before the effective date of this act.
- 5 **Reissuance.** Lets the owner of registered land ask the registrar of titles for a new certificate of title without memorials of interests in the land that have terminated.
- 6 **Standard documents.** Sets a \$15 fee to issue a CECT.
- 7 **Purpose.** Eliminates the requirement of including an examiner's supplemental directive when

registering a CPT.

- 8 **Application; contents.** Lets owners of two or more adjacent tracts in the same county apply jointly to register title to their individual tracts, with the approval of the examiner of titles. Requires the application to list separately for each tract the information already required by law.
- 9 **Amendment.** Amends the CPT statute. Lets a person who acquires the original applicant's estate in land by voluntary instrument from the original applicant be substituted for the original applicant by executing an amendment to the CPT.
- 10 **Application to examiner.** Strikes reference to supplemental directives.
- 11 **Application filed with county recorder.** Requires an applicant for a CPT to deliver a certified copy of the recorded application to the examiner of titles.
- 12 **Abstract supplied.** Stylistic change.
- 13 **Limitation.** Strikes reference to supplemental directives.
- 14 **Directive.** Adds requirements for issuing a CPT: that specified interests in the examiner's report be shown in separate memorials and that interests arising after filing of the CPT application be shown. Requires the title examiner to deliver the abstract of title to the registrar of titles, who must keep it. Provides that the abstract is not be entered as a memorial on the CPT.
- 15 **Fees.** Strikes an incorrect reference.
- 16 **Rights of person holding CPT.** Amends a section on interests that the holder of a CPT is subject to. Strikes from this list interests moved to section 14.
- 17 **Forms of CPT.** Modifies the content of a CPT. Strikes references to the provision on the examiner's supplemental directive because the supplemental directive is repealed by the act.
- 18 **Declaration.** Requires that before a declaration or bylaws for a condominium or an amendment to them can be filed with the registrar of titles, there must be a court determination or a written directive of the examiner of titles that the documents comply with applicable condominium law.
- 19 **Form of common elements certificate of title.** Requires the registrar of titles to issue a common elements certificate of title (CECT) when a declaration creating a condominium is filed. Sets out the form of a CECT.
- 20 **Tract index.** Requires CECTs to be maintained like certificates of title and be indexed in the tract index. Specifies that names of owners in the tract index will be "unit owners." Specifies the description of the registered land in the tract index as "common elements " or "CECT."
- 21 **Unit certificates.** Requires CPTs for condominium units to include a statement that the unit is subject to interests noted on the specified CECT.
- 22 **Memorials.** Specifies items related to common elements of a condominium that are to be entered as memorials on the CECT only.
- 23 **Preexisting condominiums.** Provides for issuing CECTs on condominiums that exist prior to the effective date of the act.
- 24 **Reissuance.** Amends the CPT law to allow an owner to request the registrar of titles to issue a new CPT free of the memorials about interests that have terminated.
- 25 **Combined certificate.**
- Subd. 1. Combining CPT and certificate of title.** Lets the owner of registered land who has a CPT and a certificate of title get a combined certificate of title. Specifies that the combined certificate must state that lands described in the title examiner's directive are subject to certain claims that can be made within five years after the date of the first CPT.
- Subd. 2. Applicable statute.** Lands in the combined certificate that are registered under the certificate of title law or integrated into that system are governed by that statute. Lands in a

combined certificate registered under the CPT statute and not integrated into the certificate of title system are subject to the CPT statute.

26 **Standard documents.** Sets the fees to be paid to the registrar for various actions in connection with CECTs and combined certificates of title.

27 **Changeover, memorials on certificate of title.** Strikes a reference to a provision repealed by the act and corrects another cross reference.

28 **Recording.** Technical; cross reference. Also reflects creation of CECTs for condominiums.

29 **Transfer of special declarant rights.** Amends the condominium law to reflect the creation of CECTs in the certificate of title and CPT laws.

30 **Other liens.** Amends a provision on recording liens in the condominium law to reflect the creation of CECTs in the certificate of title and CPT laws.

- These sections amend a law that prevents actions affecting the title to real estate based on an instrument or transaction more than 40 years in the past. The amendments delete obsolete references and eliminate references to the registrar of titles. A new subdivision states that the "40 year law" does not apply to property while it is registered under the certificate of title or CPT law. The subdivision preserves actions pending on August 1, 2001, or started before February 1, 2002, if notice of the action is filed before February 1, 2002, in the office of the registrar of titles in the county where the property is located.

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37 **Repealer.** Section 508.71 (prerequisites for filing condominium declaration, bylaws, or amendments thereto); 508A.22, subd. 2 (examiners supplemental directive under CPT law); 508A.27 (issuance of supplemental directive under CPT law where applicant's estate was transferred to another before the CPT issued); and 508A.351 (required memorial on a CPT stating that the land is subject to the rights of persons in possession and subject to rights that would be disclosed by a survey).

38 **Revisor's instruction.** Directs the revisor to correct various headnotes.

39 **Effective date.** Makes section 1 effective April 27, 2001, but preserves actions pending on its effective date or started before February 1, 2002, if notice of the action is filed before February 1, 2002, in the office of the registrar of titles in the county where the property is located.