

HOUSE RESEARCH

Bill Summary

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Overview

This bill consists of real property law changes proposed by the Minnesota State Bar Association. The summary contains material provided by the Minnesota State Bar Association.

Section

Article 1

Torrens Provisions

- 1 1** **Application; land included.** Allows an owner of multiple parcels of land in the same county to register them all in one application. Allows multiple owners of separate parcels to join in one application.
- 2 2** **Form of certificate.** Eliminates the requirement that an "affidavit of purchaser" be prepared and filed with a deed of Torrens (registered) land. No such affidavit is now required on abstract land nor is such an affidavit now required in other jurisdictions which have Torrens land registration systems.
- 3** Same as section 2.
- 4** **Court order.** Eliminates reference to a "land registration docket" which was abolished by other legislation several years ago.
- 5** **Procedure; costs.** Amends a current provision in the Torrens act that lets a party with an unregistered interest file a notice on the certificate of title to put the public on notice of that interest. Makes clear that such a claim is entitled to be recorded. Provides for notice to the registered owner by the party making the claim that the claim has been filed. Clarifies that such a notice cannot be used to avoid paying deed, mortgage registry, or real estate taxes.

Allows the registered owner or other party whose interest is affected by the notice to demand the notice be discharged or require the party claiming the interest to go into court and establish the validity of the claim. This new provision is similar to provisions in Torrens laws in other jurisdictions.

6 Same as section 5.

7 Same as section 5.

8 Same as section 5.

9 **Effective date.** Article 1 is effective August 1, 2003.

Article 2

Other

1 1 **One year limitation.** Amends section 481.13, subdivision 3, to provide that the agreement extending the one year time limit to assert a lien must be filed within one year from the filing of the notice of intention to claim a lien.

2 2 **Discharge of mortgage for contract for deed seller.** New section 507.401 provides that if a seller grants a mortgage on real property that it has already sold on a recorded contract for deed, the mortgage does not encumber the buyer's interest once the buyer pays off the contract and obtains a deed from a seller. Existing Minnesota case law provides that involuntary liens against the seller would not encumber the buyer's interest in similar circumstances.

3 3 **Expiration, satisfaction, release, and assignment.** Amends section 559.17, subdivision 3 to provide that an assignment of rents and profits expires when the ability to enforce the mortgage would be barred by section 541.03. That section states that a mortgage ceases to be enforceable 15 years after its maturity date, or 15 years from the date of its recording if no maturity date is stated in the mortgage.

4 4 **Effective date.** Section 1 is retroactive to August 1, 2002 to make it apply to any liens filed under the statute as amended in the 2002 session.

Sections 2 and 3 apply to all current future mortgages and assignments of rents and profits.