

CHAPTER 14—S.F.No.115

An act relating to the registration of title to real estate; providing for forms of certificates of title; certification of the examiner for issuance of certificates of title pursuant to judgments and decrees and trustee's deeds; issuance of certificates to new trustees and trustees in voluntary dissolution of corporations; directives of examiner and production of duplicate certificates of title; amending Minnesota Statutes 1971, Sections 508.35, 508.59, 508.61, 508.62 and 508.71.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1971, Section 508.35, is amended to read:

508.35 REAL PROPERTY; REGISTRATION OF TITLES; FORM OF CERTIFICATE. The certificate of title shall contain the name and residence of the owner, a description of the land, and of the estate of the owner therein, and shall by memorial contain a description of all encumbrances, liens, and interests in which the estate of the owner is subject. It shall state his age and, if under disability, the nature thereof. It shall also state whether or not the owner is married and, if married, the name of the husband or wife. In case the land is held in trust or subject to any condition or limitation, it shall state the nature and character thereof. It shall be substantially in the following form:

CERTIFICATE OF TITLE

First certificate of title, pursuant to the order of the district court, judicial district, county of, and state of Minnesota, date, 19

REGISTRATION

State of Minnesota }
County of } ss.

This is to certify that, of the of, county of, and state of, is now the owner of an estate, to-wit, of and in the following described land situated in the county of and state of Minnesota, to-wit,

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Subject to the encumbrances, liens, and interest noted by the memorial underwritten or endorsed hereon; and subject to the following rights or encumbrances subsisting, as provided in Laws 1905, Chapter 305, Section 24, namely:

(1) Liens, claims, or rights arising under the laws or the Constitution of the United States, which the statutes of this state cannot require to appear of record;

(2) Any tax or special assessment for which a sale of the land has not been had at the date of the certificate of title;

(3) Any lease for a period not exceeding three years, when there is actual occupation of the premises under the lease;

~~(4) All public highways embraced in the description of the lands included in the certificates shall be deemed to be excluded; All rights in public highways upon the land;~~

(5) Such right of appeal or right to appear and contest the application as is allowed by law;

(6) The rights of any person in possession under deed or contract for deed from the owner of the certificate of title.

That the said is of the age of years, is married and is under disability.

In witness whereof, I have hereunto subscribed my name and affixed the seal of my office, this day of, 19.....

.....
Registrar of Titles, in and for the county of and State of Minnesota.

All certificates issued subsequent to the first certificate of title shall be in like form except that they shall be entitled "Transfer from number (here give the number of the next previous certificate relating to the same land)," and shall also contain the words "Originally registered (date, volume, and page of registration)."

Sec. 2. Minnesota Statutes 1971, Section 508.59, is amended to read:

508.59 REGISTRATION OF JUDGMENT OR FINAL DECREE. A judgment or decree affecting registered land shall be registered upon the presentation of a certified copy thereof to the

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registrar, who shall enter a memorial thereof upon the original certificate of title, and upon the owner's duplicate, and upon any outstanding mortgagee's or lessee's duplicate, if practicable so to do. When the registered owner of such land is by such judgment or decree divested of his estate in fee therein, or of any part thereof, the prevailing party shall be entitled to a new certificate of title for the land, or so much thereof as may be described in the judgment and decree, and the registrar shall enter such new certificate of title and issue a new owner's duplicate certificate as in the case of a voluntary conveyance. No such new certificate shall be entered except upon application to the court and upon filing with the registrar of an order of the court directing the entry of such new certificate the written certification of the examiner of titles as to the legal sufficiency of the documents presented for filing for the purpose of issuance of a new certificate or upon the order of the district court directing the issuance thereof.

Sec. 3. Minnesota Statutes 1971, Section 508.61, is amended to read:

508.61 TRUST AND OTHER DEEDS OF LIMITATION; NEW TRUSTEE; CORPORATE DISSOLUTION. Subdivision 1. If a deed or other instrument is filed with the registrar for the purpose of transferring registered land in trust, or upon any equitable condition or limitation expressed therein, or for the purpose of creating or declaring a trust or other equitable interest therein without the transfer thereof, the particulars of the trust, condition, limitation, or other equitable interest need not be entered upon the certificate of title, but a memorial thereof may be entered by the words "in trust" or "upon condition," or other apt words, and by reference by number to the instrument authorizing or creating the same. ~~A similar memorial shall be made upon the owner's duplicate certificate. If the instrument which creates or declares a trust or other equitable interest has already been recorded in any public office of this state, a certified copy thereof may be filed with the registrar and registered by him in lieu of the original. If the instrument which creates or declares a trust or other equitable interest contains an express power to sell, mortgage, or otherwise deal with the land, such power shall be stated in the certificate of title by the words "with power to sell" or "power to mortgage" and by apt words of description in case of other powers. No instrument which transfers, mortgages, or in any manner purports to deal with registered land held in trust shall be registered unless the power thereto enabling is expressly conferred in the instrument of trust and the court has construed the instrument in favor of the power. In such case a certified copy of such decree may be filed with the registrar, who shall make registration in accordance therewith. No transfer of registered land held in trust, or of any~~

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~~estate or interest therein, or of any charge or lien upon the same, shall be registered except upon the order of the district court, filed with the registrar, adjudging and determining the true intent of the trust, condition, or limitation, and directing such transfer, charge or dealing in accordance therewith. Such registration shall be conclusive evidence that such transfer, charge, or other dealing is in accordance with the true intent and meaning of the trust, condition, or limitation.~~

Subd. 2. When a new trustee of registered land is appointed a new certificate of title shall be entered in his name upon presentation to the registrar of a certified copy of the decree or other instrument appointing him and the surrender of the owner's duplicate certificate.

Subd. 3. When a corporate owner adopts a resolution for voluntary dissolution, the registrar of titles shall enter a new certificate of title in the name of the trustee in dissolution upon the surrender of the owner's duplicate certificate and the presentation of a certified copy of the certificate setting forth the adoption of the resolution together with the certificate of the secretary of state that said certificate of dissolution has been filed for record in his office.

Subd. 4. When an instrument showing such appointment or dissolution and a trustee's deed are filed for registration on the same day, a new certificate of title may be entered in the name of the grantee or grantees and the memorial of such instrument shall have the same force and effect as though a certificate of title had been entered in favor of the trustee; the fees, however, for registration to be the same as would be the case if a certificate of title were entered in the name of the trustee.

Sec. 4. Minnesota Statutes 1971, Section 508.62, is amended to read:

508.62 TRUSTEE'S CONVEYANCE. When a new trustee of registered land is appointed a new certificate of title shall be entered in his name upon presentation to the registrar of a certified copy of the decree or other instrument appointing him and the surrender of the duplicate certificate. No instrument, executed by a trustee of registered land held in trust, which transfers, mortgages, leases, or in any manner affects such land, shall be registered except upon the written certification of the examiner of titles that such instrument is executed in accordance with a power conferred in the instrument of trust or is authorized by law, or upon the order of the district court directing the registration thereof. The examiner shall not certify any such instrument unless the trust is administered by the court or unless the document creating the trust, or a certified copy thereof, is registered as a memorial upon the certificate of title.

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Sec. 5. Minnesota Statutes 1971, Section 508.71, is amended to read:

508.71 ALTERATIONS ON REGISTER; ORDER OF COURT; DIRECTIVE OF EXAMINER; NEW CERTIFICATES.

Subdivision 1. No erasure, alteration, or amendment shall be made upon the register of titles after the entry of a certificate of title or of any memorial thereon, and the attestation of the same by the registrar, except by order of the court or upon written directive of the examiner of titles.

Subd. 2. A registered owner or other person in interest may, at any time, apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant, or inchoate, have terminated and ceased; or that new interests have arisen or been created which do not appear upon the certificate; or that any error or omission was made in entering a certificate or any memorial thereon, or on any duplicate certificate; or that the name of any person on the certificate has been changed; or that the registered owner has married, or, if registered as married, that the marriage has been terminated; or that a corporation which owned registered land and has been dissolved has not conveyed the same within three years after its dissolution; or upon any other reasonable ground; and the court may hear and determine the petition after notice to all parties in interest, and may order the entry of a new certificate, the entry or cancellation of a memorial upon a certificate, or grant any other relief upon such terms, requiring security if necessary, as it may consider proper; but the provisions of this section shall not give the court authority to open the original decree of registration, and nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser who holds a certificate for value and in good faith, or of his heirs or assigns without his or their written consent.

Subd. 3. At the request of a registered owner or other person in interest the examiner of titles by a written directive may order the amendment or cancellation of a memorial relating to racial restrictions, rights which are barred by a statute or rights which have expired by the terms of the instrument creating the rights. The registrar of titles may register the directives of the examiner of titles upon the certificates of title, and he shall give full faith to such directives.

Subd. ~~3~~ 4. Without order of court ~~in counties in which a rule of the district court so provides, or~~ directive of the examiner the registrar of titles may receive and register as memorials upon any certificate of title to which they pertain, the following instruments; receipt or certificate of county treasurer showing redemption from any tax sale or payment of any tax described in a certificate of

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title, a marriage certificate showing the subsequent marriage of any owner shown by a certificate of title to be unmarried, a certified copy of the death certificate of party listed in any certificate of title as being the spouse of the registered owner when accompanied by an affidavit satisfactory to the registrar identifying the decedent with said spouse; and in all subsequent dealings with the land covered by such certificates the registrar shall give full faith to these memorials.

Subd. 4 5. In case of a certificate of title outstanding to two or more owners as joint tenants, upon the filing for registration of ~~such~~ a certificate of death, of one of the joint tenants together with an affidavit of survivorship duly certified by the commissioner of taxation, or an affidavit of survivorship for exempt homestead property in compliance with the provisions of Minnesota Statutes, Section 291.14, Subdivision 2, Clause (4), and upon the surrender of the owner's duplicate certificate of title, the registrar without such order or directive shall issue a new certificate of title for the premises to the survivor in severalty or to the survivors in joint tenancy as the case may be.

Subd. 5 6. When instruments affecting registered land have been recorded in the office of any register of deeds in this state, a certified copy thereof may be filed for registration and registered with like effect as the original instrument, ~~if the registrar of titles shall first be satisfied that the signatures to the original are genuine without such order or directive. The owner's, mortgagee's, or lessee's duplicate certificate of title shall be presented to the registrar, together with the certified copy, whenever such presentation is required by statute for registration of the original instrument.~~

Approved March 7, 1973.

CHAPTER 15—S.F.No.169

An act relating to counties; appointment of county highway engineer; amending Minnesota Statutes 1971, Section 163.07, Subdivision 2a.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1971, Section 163.07, Subdivision 2a, is amended to read:

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