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 CHAPTER 188—S.F.No.388

[Coded in Part]

*An act relating to insurance; subrogation of claims; requiring subrogated insurers to pay a proportionate share of certain attorney fees and costs; amending Minnesota Statutes 1976, Section 65B.53, Subdivision 5, and by adding a subdivision.*

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

Section 1. Minnesota Statutes 1976, Section 65B.53, Subdivision 5, is amended to read:

Subd. 5. **INSURANCE; SUBROGATION; ATTORNEYS FEES.** Except as provided in section 65B.53 nothing in sections 65B.41 to 65B.71 shall limit or abridge the subrogation rights of a reparation obligor providing collision coverage to a policyholder.

Sec. 2. Minnesota Statutes 1976, Section 65B.53, is amended by adding a subdivision to read:

Subd. 8. Notwithstanding any law to the contrary, in any action brought for the recovery of damages allegedly caused by the negligent operation, ownership, maintenance or use of a motor vehicle or motorcycle where the right of subrogation is claimed or may be claimed under this section, or in any counterclaim to such an action, the right of an insurer to be subrogated to all or a portion of the claim of an insured, whether the right to subrogation arises from contract, statute or any other source, shall be enforceable against the insured only if the insurer, upon demand by the insured, agrees to pay a share of the attorney fees and costs incurred to prosecute the claim, in such proportion as the insurer's subrogated interest in the claim bears to any eventual recovery on the claim.

Sec. 3. This act is effective the day following its final enactment.

Approved May 20, 1977.

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 CHAPTER 189—S.F.No.442

*An act relating to county planning and zoning; providing for enforcement of certain subdivision regulations by providing for review of conveyancing instruments by an administrative officer after recording; amending Minnesota Statutes 1976, Section 394.37, Subdivision 1.*

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

Section 1. Minnesota Statutes 1976, Section 394.37, Subdivision 1, is amended to

Changes or additions indicated by underline deletions by ~~strikeout~~

read:

**394.37 COUNTIES; PLANNING AND ZONING; ENFORCEMENT.** Subdivision 1: The board shall provide for the enforcement of sections 394.21 to 394.37 and of ordinances and regulations made thereunder, and may impose enforcement duties on any officer, department, agency, or employee of the county. In a county in which subdivision regulations or controls are in force and have been filed or recorded as provided in section 394.35, the board may by ordinance require that a copy of some or all instruments which convey real estate be submitted by the county recorder to the administrative officer as provided in section 394.29, for review after recording. The officer shall examine each such instrument to determine whether the proposed conveyance complies with the subdivision and platting regulations of the county. If the conveyance does not comply with regulations, the administrative officer shall give notice by mail of the potential violation to the parties to the conveyance.

Sec. 2. This act is effective the day following its final enactment.

Approved May 20, 1977.

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**CHAPTER 190—S.F.No.466**

*An act relating to post conviction remedy; authorizing the court to determine whether a petitioner must be present at a post conviction hearing; amending Minnesota Statutes 1976, Section 590.04, Subdivision 3.*

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

Section 1. Minnesota Statutes 1976, Section 590.04, Subdivision 3, is amended to read:

**Subd. 3. POST CONVICTION REMEDY; PRESENCE OF PETITIONER.** ~~The court determines that the issues present only questions of law; it may order the petitioner to be present at the hearing; in all other cases it shall order the petitioner to be present at the hearing.~~ If the petitioner is represented by an attorney, the attorney shall be present at any hearing.

A verbatim record of any hearing shall be made and kept.

Unless otherwise ordered by the court the burden of proof of the facts alleged in the petition shall be upon the petitioner to establish such facts by a fair preponderance of the evidence.

In the discretion of the court it may receive evidence in the form of affidavit, deposition, or oral testimony. The court may inquire into and decide any grounds for relief, even though not raised by the petitioner.

Changes or additions indicated by underline deletions by ~~strikeout~~