

Sec. 26. **EFFECTIVE DATE.** This act is effective the day following its final enactment.

Approved April 5, 1978.

CHAPTER 786-H.F.No.2261

[Coded in Part]

An act relating to energy; changing the powers of the Minnesota energy agency; implementing certain residential energy efficiency standards; establishing insulation product and application standards; prescribing penalties; providing property tax exemptions for alternative energy systems; providing for solar energy zoning and planning ordinances; requiring the metropolitan council to consider access to sunlight in its land use plans; providing for solar easements; delaying implementation of the state building code; appropriating money; amending Minnesota Statutes 1976, Sections 116H.08; 273.11, Subdivision 1, and by adding a subdivision; 394.25, Subdivision 2; 394.27, Subdivision 7; 462.357, Subdivisions 1 and 6; 462.358, Subdivisions 2 and 6; 462.39, Subdivision 3; 473.05, Subdivision 1; 473.859, Subdivision 2; and Minnesota Statutes, 1977 Supplement, Section 116H.129, Subdivision 1, and by adding subdivisions.

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

Section 1. Minnesota Statutes 1976, Section 116H.08, is amended to read:

116H.08 **POWERS.** The director may:

(a) Adopt rules ~~and regulations~~, pursuant to chapter 15 necessary to carry out the purposes of sections 116H.01 to 116H.15;

(b) Make all contracts pursuant to sections 116H.01 to 116H.15 and do all things necessary to cooperate with the United States government, and to qualify for, accept and disburse any ~~private~~ grant intended for the administration of sections 116H.01 to 116H.15. Notwithstanding any other law the agency is designated the state agency to apply for, receive and accept federal or other funds made available to the state for the purposes of sections 116H.01 to 116H.15.

(c) Contract for professional services if such work or services cannot be satisfactorily performed by employees of the agency or by any other state agency;

(d) Enter into interstate compacts to jointly carry out such research and planning with other states or the federal government where appropriate;

(e) Distribute informational material, ~~at~~ at no cost to the public upon reasonable request.

Sec. 2. Minnesota Statutes, 1977 Supplement, Section 116H.129, Subdivision 1, is

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amended to read:

116H.129 ENERGY CONSERVATION STANDARDS FOR EXISTING RESIDENCES. Subdivision 1. Before January 1, ~~1978~~ 1979, the commissioner of administration, in consultation with the director and the appropriate standing committees of the legislature, shall promulgate minimum energy efficiency standards for existing residential buildings residences. The standards shall be economically feasible in that the resultant savings in energy procurement costs, based on current and projected average residential energy costs in Minnesota as certified by the director in the state register, will exceed the cost of the energy conserving requirements amortized over a period of five years the five-year period subsequent to the incurring of such cost. The costs computed under this section shall include reasonable inflation and interest factors.

By February 15, ~~1978~~, the director shall make recommendations to the legislature on methods to obtain compliance with the standards set forth in this subdivision.

Sec. 3. Minnesota Statutes, 1977 Supplement, Section 116H.129, is amended by adding subdivisions to read:

Subd. 2. For the purposes of subdivisions 3 to 7, the following terms shall have the meanings given them.

(a) "Residence" means any dwelling for habitation either seasonally, meaning all or a portion of the months of December through March, or permanently by one or more persons. A residence may be owned or rented and may be part of a multi-dwelling or multi-purpose building, but shall not include buildings such as hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools and other buildings used for educational purposes, or correctional institutions. A mobile home as defined in section 168.011, subdivision 8, shall be a residence for purposes of this section.

(b) "Time of sale" means the time when a written purchase agreement is executed by the buyer, or, in the absence of a purchase agreement, at the time of the execution of any document providing for the conveyance of a residence.

(c) "Energy disclosure report" means the written and signed evaluation by a person certified pursuant to subdivision 6 of this section made on an approved form, representing to the actual buyer of the residence evaluated that the evaluator has used reasonable care and diligence, and has found no instance of noncompliance with the items contained on the approved form as of the date thereon except as specifically designated.

(d) "Applicable energy efficiency standards" means those standards established under subdivision 1 which are not shown to be economically infeasible for the building in question.

Subd. 3. ENERGY CONSERVATION FOR RENTAL PROPERTY. Effective January 1, 1980, all residences constructed prior to January 1, 1976, which are renter-occupied during all or a portion of the months of November through April shall be in compliance with standards pursuant to subdivision 1 pertaining to caulking and
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weatherstripping of exterior joints and sealing of other openings in the building envelope. Effective July 1, 1983, all residences which are renter-occupied during all or a portion of the months of November through April shall be in compliance with all applicable energy efficiency standards.

Subd. 4. INSPECTIONS. The energy agency shall conduct inspections on a random basis for compliance with the provisions of subdivision 3 of this section.

Subd. 5. RESIDENTIAL ENERGY DISCLOSURE PROGRAM. By March 1, 1979, the commissioner of administration, in consultation with the director of the energy agency and the appropriate standing committees of the legislature, shall promulgate rules providing for residential energy disclosure requirements and shall approve forms for the purposes of this subdivision. The rules and forms shall provide only for the disclosure of structural characteristics, energy use characteristics relating to energy consumption and conservation, and the extent of compliance with standards adopted pursuant to section 116H.129, subdivision 1. Nothing in the forms shall indicate or be deemed to indicate that the residence meets all state building code specifications.

Subd. 6. BUILDING EVALUATORS. By August 1, 1979, the commissioner of administration shall certify evaluators in each county of the state who are qualified to determine the compliance of a residence with applicable energy disclosure requirements. The commissioner of administration shall, by rule pursuant to chapter 15, establish standards for the certification and performance of evaluators and set a fee for the certification of evaluators which is sufficient to cover the ongoing costs of the program once it is established. The commissioner shall encourage the certification of existing groups of trained municipal personnel and individuals from public service organizations. Effective August 1, 1979, each certified evaluator shall, on request of the owner, inspect any residence and report the degree to which it complies with applicable energy disclosure requirements. The inspections shall be made within 30 days of the request.

Subd. 7. DISCLOSURE REPORT. Effective October 1, 1979, no owner or agent shall sell by conveyance or contract for conveyance a residence constructed before January, 1976, without providing to the buyer, prior to the time of sale, a copy of an energy disclosure report for the residence unless the buyer has been provided a copy of the form used in making an energy disclosure report and has declared in writing that he waives his right to a report. If the residence has been evaluated subsequent to the effective date of this section, no new evaluation shall be required for five years after the date of the evaluation, if a copy of the last evaluation has been delivered to the prospective buyer. The provisions of this subdivision shall not apply to the sale or conveyance of any residence to a public body or by a sheriff, constable, marshal or other public or court officer in the performance of his official duties as such, or to trustees in bankruptcy or any other person or persons acting under the direction or authority of any court, state or federal, in selling a residence, except as to a public sale ordered by a probate court, in which case this subdivision shall apply.

Subd. 8. Before January 1, 1978, the commissioner of administration, in consultation with the director, shall by rule amend the standards concerning heat loss, illumination, and climate control promulgated pursuant to section 116H.12, subdivision 4,

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to require that electrical service to individual dwelling units in buildings containing two or more units be separately metered, with individual metering readily accessible to the individual occupants. The standards authorized by this subdivision shall only apply to buildings constructed after the effective date of the amended standards. Buildings intended for occupancy primarily by persons who are 62 years of age or older or handicapped, or which contain a majority of units not equipped with complete kitchen facilities, shall be exempt from the provisions of this subdivision.

Sec. 4. [325.984] HOME INSULATION; CONSUMER PROTECTION; DEFINITIONS. Subdivision 1. For the purposes of sections 4 to 9, the following terms shall have the meanings here given them.

Subd. 2. "Advertisement" means any written or verbal statement, illustration or depiction which appears in the mass media, in brochures, leaflets, or circulars, outdoor advertising, retail displays, or on vehicles, which is designed to cause the sale of or interest in the purchase of insulation.

Subd. 3. "Energy agency" means the Minnesota energy agency as provided in chapter 116H.

Subd. 4. "Industry members" means producers and suppliers of materials from which insulation is made who promote the sale or distribution of insulation; manufacturers of insulation; jobbers, wholesalers and retailers of insulation; contractors and applicators who sell and install residential insulation; and those engaged in the marketing of insulation who are, or who purport to act as, agents of manufacturers or suppliers of insulation.

Subd. 5. "Insulation" means any material or assembly of materials used primarily to provide resistance to heat flow in building structures, including but not limited to mineral fibrous, mineral cellular, organic fibrous, organic cellular or reflective materials, whether in loose fill, flexible, semi-rigid or rigid form.

Subd. 6. "Laboratory qualified to test thermal insulation" means an approved laboratory classified by the energy agency in consultation with industry members as passing an appropriate examination of ability to perform tests and continuing inspection or follow-up service according to specifications for manufacture and installation, also referred to as "testing laboratory".

Subd. 7. "Presenting a clear and present danger" means known to cause physical damage to structure or health hazards to occupants through continuing direct contact or release of hazardous substances as defined in section 24.33.

Subd. 8. "R value" means the measure of resistance to heat flow through a material or the reciprocal of the heat flow through a material expressed in British thermal units per hour per square foot per degree Fahrenheit at 75 degrees Fahrenheit mean temperature.

Subd. 9. "Specifications for manufacture and installation" means those specifications in section 5.

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Sec. 5. [325.985] SPECIFICATIONS FOR THE MANUFACTURE, LABELING, AND INSTALLATION OF INSULATION. Subdivision 1. Within nine months of the effective date of this act, the energy agency shall promulgate rules pursuant to chapter 15 regarding quality, information, and product safety specifications for the manufacture, labeling, installation, and thermographing of insulation. The specifications and any amendments to them shall conform as far as is practical to federal standards or other standards generally accepted and in use throughout the United States. Such standards, with modifications as may be deemed necessary, may be adopted by reference. The specifications as promulgated and any amendments shall be based on the application of scientific principles, approved tests, and professional judgment. Upon the effective date of this act, the energy agency may issue temporary rules pursuant to section 15.0412, subdivision 5, for the purposes of this section.

Subd. 2. In addition to the specifications promulgated pursuant to subdivision 1 of this section, no insulation presenting a clear and present danger by the nature of its composition at the time of installation shall be used or offered for sale in Minnesota.

Subd. 3. The manufacturer's written instructions describing the proper methods of application of the insulation and required or recommended safety measures shall be provided to each intermediate and ultimate consumer of all insulation sold for use in Minnesota within ten days of when the insulation is sold.

Sec. 6. [325.986] TESTING OF INSULATION. Subdivision 1. The director of the energy agency shall promulgate rules concerning qualifications of testing laboratories and the nature of continuing inspection and follow-up services for this section.

Subd. 2. Effective December 1, 1979, all insulation used or offered for sale in Minnesota shall be subject to a continuing inspection and follow-up service by an approved laboratory qualified to test thermal insulation.

Subd. 3. Upon the adoption of specifications under section 5, subdivision 1, all insulation used or offered for sale in Minnesota shall be tested in accordance with testing procedures required under those specifications by a laboratory qualified to test thermal insulation.

Subd. 4. The director of the energy agency shall purchase from time to time unopened insulation packages which shall be sent to an approved testing laboratory to test for compliance with the specifications established under section 5, subdivision 1.

Sec. 7. [325.987] UNFAIR AND DECEPTIVE ADVERTISING PRACTICES. Subdivision 1. It shall be considered an unfair and deceptive practice to violate any of the provisions of this section.

Subd. 2. No advertisement for insulation to be used or offered for sale in Minnesota shall state that a percentage of fuel costs or a certain dollar amount of fuel costs will be saved unless the statement is accompanied by the following or substantially similar disclaimer in letters the same size as the claim of savings: "Stated savings are estimates only. Actual savings may vary depending on type of home, weather conditions,

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occupant lifestyle, energy prices and other factors."

Subd. 3. No advertisement for insulation to be used or offered for sale in Minnesota shall contain any claim which is false or misleading, or for which there exists no reasonable substantiation at the time the claim is made. Prohibited claims include, but are not limited to, the following: does not burn, noncombustible, self-extinguishing, nonpoisonous, non-irritating, vermin-proof, rodent-proof, resists mildewing, will not shrink, will not crack, permanent, no deterioration, complete coverage, fills all voids, never needs replacing, will not settle. This prohibition shall not apply if the claim is substantiated by tests identified in the specifications established under section 5, subdivision 1, or by appropriate testing procedures of the American Society for Testing and Materials where no test required under section 5, subdivision 1, applies. Such tests shall be made by a laboratory qualified to test thermal insulation. When tests are not designed to duplicate actual conditions, substantiated claims must so state.

Subd. 4. No representation about the thermal resistance value of insulation shall be made unless the R value is given and has been determined by the tests required in the specification established under section 5, subdivision 1, or by appropriate testing procedures of the American Society for Testing and Materials where no test required under section 5, subdivision 1, applies. Such tests shall be made by an approved laboratory qualified to test thermal insulation.

Sec. 8. [325.988] MARKING, LABELING, AND CONSUMER INFORMATION.
Subdivision 1. The outside of all containers and wrappings of insulation used or offered for sale in Minnesota shall have the following information printed legibly thereon in bold type not less than 1/8 inch high:

(a) Type (pneumatic or blown, pouring, batt, roll, blanket, board, cellular, or reflective);

(b) R value (to the nearest tenth) per inch at the recommended installation density;

(c) Required thickness in inches to obtain four or more commonly used R values and the corresponding coverage areas in square feet of the insulation in the container or wrapping;

(d) Expiration date and expected shelf life of all resins, catalysts, and foaming agents for all foam insulations, whether in powder, diluted or partially diluted state, on canister, drum, container, or package. For purposes of this section, "foam insulation" means products having an organic base or composed of vinyl or plastic material or both, which are manufactured or installed using a process involving a foaming agent, a resin, a catalyst and an air compressor, including but not limited to urea-formaldehyde, other urea-based foams, urethane foam, polyurethane foam, polystyrene foam, and isocyanurate foam.

(e) Name and address of the manufacturer of the insulation;

(f) A notation of those current specifications of the United States General Services

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Administration, the United States Department of Energy, the United States Department of Housing and Urban Development, the United States Consumer Product Safety Commission, the Federal Trade Commission and the energy agency with which the insulation complies;

(g) The net weight of the contents of the bag, package, or container.

Subd. 2. Where insulation is used or offered for sale without the manufacturer's container, the information required in subdivision 1 shall be provided in a separate printed statement to the intermediate and ultimate consumers.

Sec. 9. [325.989] ENFORCEMENT; PENALTIES. Subdivision 1, Violation of section 5, subdivision 2, or section 6, subdivision 2 or 3, shall constitute a misdemeanor, provided that the sole liability for such violation on insulation sold under the manufacturer's brand or trademark shall be the manufacturer's, and that an industry member who is not a manufacturer shall be liable under this subdivision only if he has actual knowledge or knowledge fairly implied on the basis of the objective circumstances that the insulation presents a clear and present danger or has not been subject to the required testing procedures.

Subd. 2. Violation of section 5, subdivision 3, section 7, or section 8 shall constitute a misdemeanor.

Subd. 3. The provisions of section 7 may be enforced by the attorney general pursuant to section 325.907. The attorney general may recover costs and disbursements, including costs of investigation and reasonable attorney's fees. In addition to the remedies otherwise provided by law, any person injured by a violation of sections 5, 7, or 8 may bring a civil action and recover damages together with costs of investigation and reasonable attorney's fees, and receive other equitable relief as determined by the court. The court may as appropriate enter a consent judgment or decree without the finding of illegality.

Subd. 4. Remedies taken under this section shall not exclude other civil or criminal actions under Minnesota Statutes.

Sec. 10. Minnesota Statutes 1976, Section 273.11, Subdivision 1, is amended to read:

273.11 VALUATION OF PROPERTY. Subdivision 1. Except as provided in ~~subdivision~~ subdivisions 2 and 6 or section 273.17, subdivision 1, all property shall be valued at its market value. In estimating and determining such value, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor shall he adopt as a criterion of value the price for which such property would sell at auction or at a forced sale, or in the aggregate with all the property in the town or district; but he shall value each article or description of property by itself, and at such sum or price as he believes the same to be fairly worth in money. In assessing any tract or lot of real property, the value of the land, exclusive of structures and improvements, shall be determined, and also the value of all structures and improvements

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thereon, and the aggregate value of the property, including all structures and improvements, excluding the value of crops growing upon cultivated land. In valuing real property upon which there is a mine or quarry; it shall be valued at such price as such property, including the mine or quarry, would sell for a fair, voluntary sale, for cash. In valuing real property which is vacant, the fact that such property is platted shall not be taken into account. An individual lot of such platted property shall not be assessed in excess of the assessment of the land as if it were unplatted until the lot is improved with a permanent improvement all or a portion of which is located upon the lot, or for a period of three years after final approval of said plat whichever is shorter. When a lot is sold or construction begun, the assessed value of that lot or any single contiguous lot fronting on the same street shall be eligible for reassessment. All property, or the use thereof, which is taxable under sections 272.01, subdivision 2, or 273.19, shall be valued at the market value of such property and not at the value of a leasehold estate in such property, or at some lesser value than its market value.

Sec. 11. Minnesota Statutes 1976, Section 273.11, is amended by adding a subdivision to read:

Subd. 6. EXEMPTION FROM VALUATION INCREASE DUE TO ENERGY SYSTEM. For purposes of property taxation, the market value of real and personal property installed prior to January 1, 1984, which is a solar, wind, or agriculturally derived methane gas system used as a heating, cooling, or electric power source of a building or structure shall be excluded from the market value of that building or structure if the property is not used to provide energy for sale.

Sec. 12. Minnesota Statutes 1976, Section 394.25, Subdivision 2, is amended to read:

Subd. 2. Zoning ordinances establishing districts within which the use of land or the use of water or the surface of water pursuant to section 378.32 for agriculture, forestry, recreation, residence, industry, trade, soil conservation, water supply conservation, surface water drainage and removal, conservation of shorelands, as defined in section 105.485, and additional uses of land and of the surface of water pursuant to section 378.32, may be by official controls encouraged, regulated, or prohibited and for such purpose the board may divide the county into districts of such number, shape, and area as may be deemed best suited to carry out the comprehensive plan. Official controls may also be applied to wetlands preservation, open space, parks, sewage disposal, protection of ground water, protection of flood plains as defined in section 104.02, protection of wild, scenic or recreational rivers as defined in section 104.33, protection of slope, soils, unconsolidated materials or bedrock from potentially damaging development, preservation of forests, woodlands and essential wildlife habitat, reclamation of non-metallic mining lands; protection and encouragement of access to direct sunlight for solar energy systems as defined in section 116H.02, subdivision 11; and the preservation of agricultural lands.

Sec. 13. Minnesota Statutes 1976, Section 394.27, Subdivision 7, is amended to read:

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Subd. 7. The board of adjustment shall have the exclusive power to order the issuance of variances from the terms of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control, and when the terms of the variance are consistent with the comprehensive plan. "Hardship" as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to his property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. The board of adjustment may impose conditions in the granting of variances to insure compliance and to protect adjacent properties and the public interest. The board of adjustment may consider the inability to use solar energy systems a "hardship" in the granting of variances.

Sec. 14. Minnesota Statutes 1976, Section 462.357, Subdivision 1, is amended to read:

462.357 PROCEDURE FOR PLAN EFFECTUATION; ZONING. Subdivision 1. **AUTHORITY FOR ZONING.** For the purpose of promoting the public health, safety, morals and general welfare, a municipality may by ordinance regulate the location, height, bulk, number of stories, size of buildings and other structures, the percentage of lot which may be occupied, the size of yards and other open spaces, the density and distribution of population, the uses of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, and the uses of land for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation, conservation of shorelands, as defined in section 105.485, access to direct sunlight for solar energy systems as defined in section 116H.02, flood control or other purposes, and may establish standards and procedures regulating such uses. The regulations may divide the municipality into districts or zones of suitable numbers, shape and area. The regulations shall be uniform for each class or kind of buildings, structures or land and for each class or kind of use throughout such district, but the regulations in one district may differ from those in other districts. The ordinance embodying these regulations shall be known as the zoning ordinance and shall consist of text and maps. A city may by ordinance extend the application of its zoning regulations to unincorporated territory located within two miles of its limits in any direction, but not in a county or town which has adopted zoning regulations; provided that where two or more noncontiguous municipalities have boundaries less than four miles apart, each is authorized to control the zoning of land on its side of a line equidistant between the two noncontiguous municipalities unless a town or county in the affected area has adopted zoning regulations. Any city may thereafter enforce such regulations in the area to the same extent as if such property were situated within its corporate limits, until the county or town board adopts a comprehensive zoning regulation which includes the area.

Sec. 15. Minnesota Statutes 1976, Section 462.357, Subdivision 6, is amended to
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read:

Subd. 6. **APPEALS AND ADJUSTMENTS.** Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) To hear requests for variances from the literal provisions of the ordinance in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the ordinance. Undue hardship includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not permitted under the ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances to insure compliance and to protect adjacent properties.

Sec. 16. Minnesota Statutes 1976, Section 462.358, Subdivision 2, is amended to read:

Subd. 2. **TERMS OF REGULATIONS.** Subdivision regulations shall require that a proposed subdivision plat shall be in conformity with the official map if such exist. In establishing requirements for the location and width of streets, the municipality shall take into consideration anticipated traffic needs and the prospective character of the development and make any reasonable requirements therefor. As a condition to the approval of any subdivision plat of lands to which the regulations apply, subdivision regulations may prescribe requirements concerning the extent and manner in which streets shall be graded and improved, and electric and gas distribution lines or piping, water, sewer, or other facilities shall be installed. The regulations may provide, or authorize the governing body or other platting authority to provide, that, in lieu of the completion of such work before the final approval of the plat, the governing body or platting authority may accept or require a contract secured by a cash deposit, certified check, or a bond in an amount and with surety and conditions satisfactory to it, to assure the municipality that such improvements and utilities will be actually constructed and installed according to the specifications approved by the governing body or platting authority as expressed in the contract; and the municipality may enforce such contracts by appropriate legal and equitable remedies. The subdivision regulations may require that in appropriate plots of subdivisions to be developed for residential, commercial, industrial or other uses, or as a planned development which includes residential, commercial and industrial uses, or any combination thereof, that a reasonable portion of each proposed subdivision be dedicated to the public for public use as parks, playgrounds, public open space, or storm water

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holding areas or ponds, or that the subdivider contribute an equivalent amount in cash based on the fair market value of the undeveloped land, as defined by the regulations, provided that cash payments received under such regulations shall be placed in a special fund by the municipality and used only for the acquisition of land for parks, playgrounds, public open space and storm water holding areas or ponds, development of existing park and playground sites, public open space and storm water holding areas or ponds, and debt retirement in connection with land previously acquired for such public purposes. The subdivision regulations, in setting forth the reasonable portion of each proposed subdivision to be dedicated to the public for public use as provided above, may take into consideration the open space, park, recreational or common areas and facilities which the subdivider has provided for the exclusive use of the residents of the subdivision.

A municipality may, through subdivision regulations, prohibit or restrict development for purposes of soil and water conservation. Such soil and water conservation regulations may call for site development plans with provisions for the control of drainage, erosion, and siltation.

A municipality may, for purposes of protecting and assuring access to direct sunlight for solar energy systems, prohibit, restrict or control development through subdivision regulations. The regulations may call for subdivision development plans containing restrictive covenants, height restrictions, side yard and setback requirements, or other permissible forms of land use controls.

Sec. 17. Minnesota Statutes 1976, Section 462.358, Subdivision 6, is amended to read:

Subd. 6. **VARIANCES.** Subdivision regulations may provide for a procedure for varying the regulations as they apply to specific properties where an unusual hardship on the land exists, but variances may be granted only upon the specific grounds set forth in the regulations. Unusual hardship includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.

Sec. 18. Minnesota Statutes 1976, Section 462.39, Subdivision 3, is amended to read:

Subd. 3. **PLANNING.** The commission shall prepare and adopt, after appropriate study and such public hearings as may be necessary, a comprehensive development plan for the region. The plan shall consist of a compilation of policy statements, goals, standards, programs, and maps prescribing guides for an orderly and economic development, public and private, of the region. The comprehensive development plan shall recognize and encompass physical, social, or economic needs of the region, and those future developments which will have an impact on the entire region including but not limited to such matters as land use, parks and open space land needs, access to direct sunlight for solar energy systems, the necessity for and location of airports, highways, transit facilities, public hospitals, libraries, schools, public and private, housing, and other public buildings. In preparing the development plan the commission shall use to the maximum extent feasible the resources studies and data available from other planning agencies within the region, including counties, municipalities, special districts, and

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subregional planning agencies, and it shall utilize the resources of the state planning agency to the same purpose. No development plan or portion thereof for the region shall be adopted by the commission until it has been submitted to the state planning agency for review and comment and a period of 60 days has elapsed after such submission. When a development plan has been adopted, the commission shall distribute it to all local government units within the region.

Sec. 19. Minnesota Statutes 1976, Section 473.05, Subdivision 1, is amended to read:

473.05 **PLANS.** Subdivision 1. The commission shall make plans for the physical, social, and economic development of its metropolitan area with the general purpose of guiding and accomplishing a coordinated and harmonious development of the area and of public facilities, improvements, and utilities which do not begin and terminate within the boundaries of any single governmental unit or which do not relate exclusively to the development of any single governmental unit. Such plans may include, among other things, suggestions as to highways and other transportation facilities, parks and recreational facilities, methods for protection and assuring access to direct sunlight for solar energy systems, drainage and water supply facilities, public buildings, utilities and services, as well as suggested standards for the subdivision of land and for control over the construction, height, bulk, location and use of buildings and premises. The commission may adopt by resolution of a majority of its full membership any such plan or portion of any plan as its official recommendation for the development of the area.

Sec. 20. Minnesota Statutes 1976, Section 473.859, Subdivision 2, is amended to read:

Subd. 2. **LAND USE PLAN.** A land use plan shall designate the existing and proposed location, intensity and extent of use of land and water for agricultural, residential, commercial, industrial and other public and private purposes, or any combination of such purposes. A land use plan shall contain a protection element, as appropriate, for historic sites and the matters listed in section 473.204, and an element for protection and development of access to direct sunlight for solar energy systems. A land use plan shall also include a housing element containing standards, plans and programs for providing adequate housing opportunities to meet existing and projected local and regional housing needs, including but not limited to the use of official controls and land use planning to promote the availability of land for the development of low and moderate income housing.

Sec. 21. **[500.30] SOLAR EASEMENTS.** Subdivision 1. "Solar easement" means a right, whether or not stated in the form of a restriction, easement, covenant, or condition, in any deed, will, or other instrument executed by or on behalf of any owner of land or solar skyspace for the purpose of ensuring adequate exposure of a solar energy system as defined in section 116H.02, Subdivision 11, to solar energy.

Subd. 2. Any property owner may grant a solar easement in the same manner and with the same effect as a conveyance of an interest in real property. The easements shall be created in writing and shall be filed, duly recorded, and indexed in the office of the

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recorder of the county in which the easement is granted. No duly recorded solar easement shall be unenforceable on account of lack of privity of estate or privity of contract; such easements shall run with the land or lands benefited and burdened and shall constitute a perpetual easement, except that a solar easement may terminate upon the conditions stated therein or pursuant to the provisions of section 500.20.

Subd. 3. Any deed, will, or other instrument that creates a solar easement shall include, but the contents are not limited to:

(a) a description of the real property subject to the solar easement and a description of the real property benefiting from the solar easement;

(b) a description of the vertical and horizontal angles, expressed in degrees and measured from the site of the solar energy system, at which the solar easement extends over the real property subject to the solar easement, or any other description which defines the three dimensional space, or the place and times of day in which an obstruction to direct sunlight is prohibited or limited;

(c) any terms or conditions under which the solar easement is granted or may be terminated;

(d) any provisions for compensation of the owner of the real property benefiting from the solar easement in the event of interference with the enjoyment of the solar easement, or compensation of the owner of the real property subject to the solar easement for maintaining the solar easement;

(e) any other provisions necessary or desirable to execute the instrument.

Subd. 4. A solar easement may be enforced by injunction or proceedings in equity or other civil action.

Subd. 5. Any depreciation caused by any solar easement which is imposed upon designated property, but not any appreciation caused by any solar easement which benefits designated property, shall be included in the valuation of the property for property tax purposes.

Sec. 22. Notwithstanding the provisions of section 16.851, the date by which the state building code must be enforced within all municipalities in the state is January 1, 1979, except that those portions of the state building code relating to the grading of lumber shall not be effective until January 1, 1980.

Sec. 23. APPROPRIATIONS. Subdivision 1. For the year ending June 30, 1979, the sum of \$26,000 is appropriated from the general fund to the energy agency for the purposes of sections 5 and 6.

Subd. 2. For the year ending June 30, 1979, the sum of \$18,000 is appropriated from the general fund to the department of administration for the purposes of section 3.

Changes or additions indicated by underline deletions by strikeout

Subd. 3. The sum of \$80,000 of the funds appropriated pursuant to Laws 1976, Chapter 254, Section 16, Clause (e), is cancelled. For the fiscal years 1978 and 1979, the sum of \$80,000 is appropriated from the general fund to the director of the housing finance agency for the purpose of studying and reporting to the legislature by January 15, 1979, on existing loan programs for the rehabilitation of low and moderate income rental housing for energy conservation purposes. In particular, the study shall focus on the financial impact of rehabilitation and energy conservation programs on tenants. The director shall also include in the report to the legislature his recommendations for additional legislation for energy conservation programs for low and moderate income rental housing, and for methods of protecting tenants from unreasonable costs as a result of such programs. The spending limit on general administrative cost of housing finance agency programs for fiscal years 1978 and 1979 shall be increased by the amount of the funds appropriated by this subdivision.

Sec. 24. EFFECTIVE DATE. This act shall be effective the day after enactment. Section 11 shall be effective for assessments made for taxes levied in 1978 and payable in 1979 and thereafter.

Approved April 5, 1978.

CHAPTER 787-H.F.No.2292

[Coded in Part]

An act relating to cities; establishing requirements for financial statements, reports and audits; providing a time limit for submissions of certain reports to the state auditor; providing for enforcement of reporting requirements; appropriating money; amending Minnesota Statutes 1976, Chapter 471, by adding sections; repealing Minnesota Statutes 1976, Sections 412.281 and 412.291.

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

Section 1. Minnesota Statutes 1976, Chapter 471, is amended by adding a section to read:

[471.695] CITIES FINANCIAL STATEMENTS, REPORTS AND AUDITS; DEFINITIONS. For the purposes of sections 1 to 5, "city" means a statutory city or home rule charter city.

Sec. 2. Minnesota Statutes 1976, Chapter 471, is amended by adding a section to read:

[471.696] FISCAL YEAR; DESIGNATION. Beginning in 1979 the fiscal year of a city and all of its funds shall be the calendar year. The state auditor may upon request of a city and a showing of inability to conform, extend the deadline for compliance with this section for one year.

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