

**SENATE
STATE OF MINNESOTA
NINETY-SECOND SESSION**

S.F. No. 2638

(SENATE AUTHORS: JOHNSON)

DATE
01/31/2022

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Introduction and first reading
Referred to Civil Law and Data Practices Policy

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to real property; making technical, clarifying, and conforming changes to
1.3 title provisions; amending Minnesota Statutes 2020, sections 508.08, subdivision
1.4 2; 508.11; 508.13; 508.671, subdivision 1; 508A.06; 508A.10; 508A.11,
1.5 subdivisions 2, 3; 508A.13, subdivision 1; 508A.22.

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

1.7 Section 1. Minnesota Statutes 2020, section 508.08, subdivision 2, is amended to read:

1.8 Subd. 2. ~~Adjacent land~~ **Separate tracts; common title defect.** Two or more owners
1.9 of separate tracts of land may join in one application to register the title to their individual
1.10 tracts if the tracts share a common title defect requiring substantially the same evidence for
1.11 adjudication. The application must list separately all of the information required by section
1.12 508.06 for the owner or owners of each of the tracts included in the application.

1.13 Sec. 2. Minnesota Statutes 2020, section 508.11, is amended to read:

1.14 **508.11 COURT ADMINISTRATOR; FILING, RECORDING; CERTIFYING;**
1.15 **EFFECT.**

1.16 Subdivision 1. Approval by examiner. Applications for initial registration shall be
1.17 approved as to form by the examiner prior to filing with the court administrator.

1.18 Subd. 2. Filing. The application for initial registration shall be filed with the court
1.19 administrator. ~~All final orders or decrees shall be recorded by the court administrator.~~ At
1.20 the time of the filing of the application with the court administrator, a copy thereof, duly
1.21 certified by the court administrator, shall be filed by the applicant for record with the county
1.22 recorder, and shall be notice forever to purchasers and encumbrancers of the pendency of

2.1 the proceeding and of all matters referred to in the court files and records pertaining to the
 2.2 proceeding. The applicant shall file with the court administrator, as soon after the filing of
 2.3 the application as is practicable, an abstract of title ~~to~~ or other evidence of title for the land
 2.4 described in the application, satisfactory to the examiner. If a survey is required ~~so to do~~
 2.5 by the examiner, the applicant shall ~~likewise cause the land to be surveyed by some competent~~
 2.6 ~~surveyor, and file a survey, certified by a licensed surveyor, with the court administrator a~~
 2.7 ~~plat of the land duly certified by such surveyor.~~ At the time of the filing of a final order or
 2.8 decree with the court administrator, a copy thereof, duly certified by the court administrator,
 2.9 shall be filed by the applicant with: (1) the registrar of titles for issuance of a first certificate
 2.10 of title; and (2) the county recorder for indexing in the tract index to show the disposition
 2.11 of the registration case.

2.12 Sec. 3. Minnesota Statutes 2020, section 508.13, is amended to read:

2.13 **508.13 REFERENCES TO EXAMINERS; POWERS; REPORTS.**

2.14 Immediately after the filing of the abstract of title or other evidence of title acceptable
 2.15 to the examiner of titles, the court administrator shall refer the file to the examiner of titles,
 2.16 who shall proceed to examine into the title of the land described in the application, and into
 2.17 the truth of all matters set forth therein. The examiner shall ascertain whether or not the
 2.18 land is occupied, and, if occupied, shall ascertain the nature thereof, and by what right the
 2.19 occupation is held. The examiner shall also ascertain whether or not any judgments exist
 2.20 which may be a lien upon the land. The examiner shall search all public records, and fully
 2.21 investigate all facts pertaining to the title which may be brought to the examiner's notice,
 2.22 and shall file in the case a full report thereof, together with the examiner's opinion upon the
 2.23 title. The court shall not be bound by any report of the examiner of titles, but may require
 2.24 further or other proof. An examiner of titles shall have full power to administer oaths and
 2.25 examine witnesses concerning any matter involved in the examiner's investigation of titles.
 2.26 When, in the opinion of the examiner, the state has any interest in, or lien upon, the land,
 2.27 the examiner shall state the nature and character thereof in the examiner's report, and in
 2.28 such cases, the state shall be joined as a party, and named in the summons as a party thereto,
 2.29 in order that its interest, estate or lien may be defined and preserved. The court administrator
 2.30 shall give notice to the applicant of the filing of such report. If the report of the examiner
 2.31 is adverse to the applicant, the applicant shall have a reasonable time in which to proceed
 2.32 further, or to withdraw the application. This election shall be made in writing and filed with
 2.33 the court administrator. Examiners shall, upon the request of the registrar, advise the registrar
 2.34 upon any act or duty pertaining to the conduct of the office, or prepare the form of any
 2.35 memorial to be made or entered by the registrar.

3.1 In all cases where under the provisions of this chapter application is made to the court
3.2 for any order or decree, the court may refer the matter to the examiner of titles for hearing
3.3 and report in like manner as herein provided for the reference of the initial application for
3.4 registration.

3.5 Sec. 4. Minnesota Statutes 2020, section 508.671, subdivision 1, is amended to read:

3.6 Subdivision 1. **Petition.** An owner of registered land may apply by a duly verified petition
3.7 to the court to have all or some of the boundary lines judicially determined. An owner of
3.8 unregistered land may apply by a duly verified petition to the court to have all or some of
3.9 the boundary lines of the unregistered parcel judicially determined under this section,
3.10 provided the relief requested affects one or more adjoining parcels of registered land. The
3.11 petition shall contain the full names and post office addresses of all owners of adjoining
3.12 lands and the legal description of the adjoining lands which are in any manner affected by
3.13 the boundary determination. At the time of the filing of the petition with the court
3.14 administrator, a copy of it, duly certified by the court administrator, shall be recorded with
3.15 the registrar of titles and entered as a memorial on the petitioner's certificate of title, if
3.16 applicable, and on the certificates of title for any affected adjoining registered lands, and
3.17 recorded with the county recorder if the petitioner's land or any affected parcels are
3.18 unregistered lands, and entered in the tract index for the affected lands. When recorded or
3.19 filed, the certified copy of the petition shall be notice forever to purchasers and
3.20 encumbrancers of the pendency of the proceeding and of all matters referred to in the court
3.21 files and records pertaining to the proceeding. The owner shall have the premises surveyed
3.22 by a licensed land surveyor and shall file in the proceedings a plat of the survey showing
3.23 the correct location of the boundary line or lines to be determined. There also shall be filed
3.24 with the court administrator a memorandum abstract, or other evidence satisfactory to the
3.25 examiner, showing the record owners and encumbrancers of the adjoining lands which are
3.26 in any manner affected by the boundary line determination. The petition shall be referred
3.27 to the examiner of titles for examination and report in the manner provided for the reference
3.28 of initial applications for registration. Notice of the proceeding shall be given to all interested
3.29 persons by the service of a summons which shall be issued in the form and served in the
3.30 manner as in initial applications.

3.31 Sec. 5. Minnesota Statutes 2020, section 508A.06, is amended to read:

3.32 **508A.06 CONTENTS OF APPLICATION; CLAIMANTS' RIGHTS, PRIVILEGES.**

3.33 The application shall set forth substantially:

4.1 (1) the full name and address of the applicant; if the application is made by any person
4.2 acting in behalf of another, the application shall likewise state the full name and address of
4.3 the person so acting, and the capacity in which the person acts; if the applicant is not an
4.4 individual, the application shall include the full legal name and type of entity, the state of
4.5 organization, and the address of its principal place of business;

4.6 (2) whether the applicant is or is not married and if married, the full name and address
4.7 of the spouse; whether the applicant is or is not 18 years of age or older; whether or not the
4.8 applicant is under any legal incapacity, and if so the nature of the incapacity; and whether
4.9 the applicant has ever been divorced and if so, when, where, and by what court the divorce
4.10 was granted;

4.11 (3) a correct description of the land;

4.12 (4) the estate or interest of the applicant in the land, and whether or not it is subject to
4.13 an estate of homestead;

4.14 (5) the names of all persons or parties, except the applicant, who appear of record, or
4.15 who are known to the applicant to have or to claim any right, title, estate, lien, or interest
4.16 in the land and the nature and character of it;

4.17 (6) whether the land is occupied or unoccupied; if occupied by any other person than
4.18 the applicant, it shall state the full name and address of each occupant and the nature of the
4.19 estate, interest, lien, or charge which the occupant or occupants have, or claim to have, in
4.20 the land;

4.21 (7) whether the land is subject to any lien or encumbrance, recorded or unrecorded,
4.22 together with the character and amount of the same, and the name and post office address
4.23 of each holder thereof; if recorded, it shall state the place, book, and page of record;

4.24 (8) if the application is on behalf of a minor, it shall state the age of the minor and that
4.25 a duly certified copy of the letters of guardianship has been recorded with the county recorder
4.26 in the county in which the land is situated;

4.27 (9) when a required address is unknown to the applicant after due and diligent search,
4.28 it shall be so stated;

4.29 (10) the facts supporting applicant's claim to a possessory estate in land as defined in
4.30 section 508A.01, subdivision 3.

4.31 Any person having or claiming any right, title, interest, or estate in land, or any lien or
4.32 charge upon or against it, may assent in writing to its registration and waive mailed notice
4.33 under section 508A.10, clause (3). The assent and waiver of notice shall be executed and

5.1 acknowledged in the manner required by law for the execution and acknowledgment of a
5.2 deed and attached to the application.

5.3 Sec. 6. Minnesota Statutes 2020, section 508A.10, is amended to read:

5.4 **508A.10 APPLICATION TO EXAMINER; POWERS OF EXAMINER.**

5.5 An application for registration for a CPT shall be addressed to the examiner of titles in
5.6 and for the county in which the land described is situated. The examiner shall have the
5.7 powers provided in sections 508A.01 to 508A.85 including but not limited to the following:

5.8 (1) to approve all applications prior to filing of record;

5.9 (2) to require an abstract of title or other evidence of title with searches and
5.10 recertifications as desired;

5.11 (3) to require that mailed notice be given to the holders of any interest, when their
5.12 addresses are known;

5.13 (4) to issue examiner's reports, supplemental reports, and directives to the registrar
5.14 regarding initial CPTs or memorials upon any CPT pursuant to section 508A.71;

5.15 (5) to require the county surveyor to review the proposed legal description of any CPT
5.16 or to inspect the real property;

5.17 (6) to suspend any proceeding hereunder upon receipt of any valid written objections
5.18 by persons claiming an interest in the real property; and

5.19 (7) to require proceedings subsequent to the initial CPT as may be necessary to achieve
5.20 the purposes of sections 508A.01 to 508A.85, or to certify instruments transferring title
5.21 pursuant to sections 508A.59, 508A.62, and 508A.69.

5.22 Sec. 7. Minnesota Statutes 2020, section 508A.11, subdivision 2, is amended to read:

5.23 Subd. 2. **Abstract supplied.** The applicant shall deliver to the examiner of titles an
5.24 abstract of title or other evidence of title satisfactory to the examiner. In the event the
5.25 examiner refuses to direct the issuance of a CPT, the abstract shall be returned. Otherwise,
5.26 the abstract shall be returned to the applicant only at the time and under the conditions as
5.27 the examiner shall determine.

6.1 Sec. 8. Minnesota Statutes 2020, section 508A.11, subdivision 3, is amended to read:

6.2 Subd. 3. **Fees.** Before the examiner of titles examines the abstract of title or other evidence
6.3 of title, the applicant shall pay to the registrar of titles the fee provided by section 508A.82,
6.4 subdivision 1, clause (18).

6.5 Sec. 9. Minnesota Statutes 2020, section 508A.13, subdivision 1, is amended to read:

6.6 Subdivision 1. **Examination of documents.** After the filing of the application for a CPT,
6.7 the examiner of titles shall proceed to prepare a full written report to the applicant or the
6.8 applicant's attorney based upon the examiner's examination of the application, abstract of
6.9 title or other evidence of title, and the public records.

6.10 Sec. 10. Minnesota Statutes 2020, section 508A.22, is amended to read:

6.11 **508A.22 EXAMINER'S DIRECTIVE; FEES.**

6.12 Subdivision 1. **Directive.** The examiner of titles, upon being satisfied that the applicant
6.13 is entitled to a CPT, but not earlier than 20 days from the date of mailing of the notice
6.14 required by section 508A.13, shall issue a written directive to the registrar of titles directing
6.15 that the first CPT be issued and entered in the name of the applicant, subject only to the
6.16 following: (a) the exceptions set out in section 508A.25; (b) separate memorials showing
6.17 all outstanding rights, titles, estates, liens, and interests set forth in the examiner's report
6.18 and any additional liens, encumbrances, or other interests affecting the land, arising after
6.19 the filing of the application; and (c) a memorial of the examiner's directive which must state
6.20 that the land described in the directive is subject to the rights of persons in possession, if
6.21 any, and any rights which would be disclosed by a survey except as those rights are limited
6.22 by section 508A.02, subdivision 1. The examiner's directive shall contain an accurate
6.23 description of the land and shall set forth the address of the applicant and, if the applicant
6.24 is an individual, whether the applicant is 18 years of age or older, and whether married or
6.25 unmarried, and if married, the name of the spouse; if the applicant is under any legal
6.26 incapacity, the nature of it shall be stated. The examiner's directive shall also be recorded
6.27 with the county recorder and indexed in the tract index to show that the CPT application
6.28 was granted and the land is converted to registered property. The examiner's directive is
6.29 recordable without an acknowledgment. The examiner shall deliver the abstract of title to
6.30 the registrar of titles who shall retain it, but it must not be entered as a memorial on the
6.31 CPT. From the date of filing the examiner's directive with the registrar of titles, all
6.32 instruments affecting title to the land which are registered shall be filed in the office of the
6.33 registrar of titles and be memorialized upon the CPT.

7.1 Subd. 3. **Fees.** Upon the filing with the registrar of titles of the examiner's directive
7.2 pursuant to subdivision 1, there shall be paid by the applicant to the registrar the fee provided
7.3 by section 508A.82, subdivision 1, clause (2), for registering a first CPT, and there shall be
7.4 paid to the county recorder the fee provided by section 357.18 for recording an instrument.