

13 with the amendment requirements contained in the articles or bylaws  
 14 of said association that are adopted subsequent to July 4, 1963, or are  
 15 in effect on or after July 4, 1964, provided said amendment require-  
 16 ments in the articles or bylaws are not less than established in this  
 17 section."

1 SEC. 2. Section four hundred ninety-nine point forty-six (499.46),  
 2 Code 1962, is hereby amended by striking the first sentence thereof  
 3 and inserting in lieu thereof the following:

4 "The directors, by a vote of seventy-five percent (75%) of the  
 5 directors, may adopt, alter, amend, or repeal bylaws for the associa-  
 6 tion, which shall remain in force until altered, amended, or repealed  
 7 by a vote of seventy-five percent (75%) of the members present or  
 8 represented having voting privileges, at any annual meeting or special  
 9 meeting of the membership, or as otherwise provided in the articles  
 10 of incorporation or bylaws."

Approved May 17, 1963.

## CHAPTER 293

### HORIZONTAL PROPERTY

#### S. F. 117

AN ACT relating to the ownership of individual apartment units.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. **Short Title:** This Act shall be known as the "Horizon-  
 2 tal Property Act".

1 SEC. 2. **Definition:** Unless it is plainly evident from the context  
 2 that a different meaning is intended, as used herein:

3 (a) "Apartment" means one or more rooms occupying all or a part  
 4 of a floor or floors in a building of one or more floors or stories, but not  
 5 the entire building, and notwithstanding whether the apartment be  
 6 intended for use or used as a residence, office, for the operation of any  
 7 industry or business or for any other use not prohibited by law.

8 (b) "Co-owner" means a person, corporation, partnership or other  
 9 legal entity capable of holding or owning any interest in real property  
 10 who owns all or an interest in an apartment within the building.

11 (c) "Council of co-owners" means all the co-owners of the building.

12 (d) "General common elements" means and includes:

13 (1) The land on which the building is erected.

14 (2) The foundations, basements, floors, exterior walls of each apart-  
 15 ment and of the building, ceilings and roofs, halls, lobbies, stairways,  
 16 and entrances and exits or communication ways, elevators, garbage  
 17 incinerators and in general all devices or installations existing for  
 18 common use.

19 (3) Compartments or installations of central services for public  
 20 utilities, common heating and refrigeration units, reservoirs, water  
 21 tanks and pumps servicing other than one apartment.

22 (4) Premises for lodging of service personnel engaged in perform-  
23 ing services other than services within a single apartment.

24 (e) "Limited common elements" means and includes those common  
25 elements which are agreed upon by all the co-owners to be reserved  
26 for the use of a certain number of apartments to the exclusion of the  
27 other apartments, such as special corridors, stairways and elevators,  
28 sanitary services common to the apartments of a particular floor, and  
29 the like.

30 (f) "Majority of co-owners" or "percent of co-owners" means the  
31 owners of more than one-half or owners of that percent of interest in  
32 the building irrespective of the total number of co-owners.

33 (g) "Property" includes the land whether committed to the horizon-  
34 tal property regime in fee or as a leasehold interest, the building, all  
35 other improvements located thereon, and all easements, rights and  
36 appurtenances belonging thereto.

37 (h) All pronouns used herein include the male, female and neuter  
38 genders and include the singular or plural numbers, as the case may be.

1 **SEC. 3. Recording of Declaration to Submit Property to Regime:**  
2 When the sole owner or all of the owners, or the sole lessee or all of the  
3 lessees of a lease desire to submit a parcel of real property upon which  
4 is located a building to the horizontal property regime established by  
5 this chapter, a declaration to that effect shall be executed and acknowl-  
6 edged by the sole owner or lessee or all of such owners or lessees and  
7 shall be recorded in the office of the county recorder of the county in  
8 which such property lies.

1 **SEC. 4. Contents of Declaration:** The declaration provided for in  
2 section three (3) shall contain:

3 (a) A description of the land.

4 (b) A description of the building, stating the number of stories and  
5 basements, the number of apartments and the principal materials of  
6 which it is or is to be constructed.

7 (c) The apartment number of each apartment, and a statement of  
8 its location, approximate area, number of rooms, an immediate com-  
9 mon area to which it has access, and any other data necessary for its  
10 proper identification.

11 (d) A description of the general common elements and facilities.

12 (e) A description of the limited common elements and facilities, if  
13 any, stating to which apartments their use is reserved.

14 (f) The fractional or percentage interest which each apartment  
15 bears to the entire horizontal property regime. The sum of such shall  
16 be one if expressed in fractions and one hundred if expressed in per-  
17 centage.

18 (g) The provisions as to the percentage of votes by the apartment  
19 owners which shall be determinative of whether to rebuild, repair,  
20 restore, or sell the property in the event of damage or destruction of  
21 all or part of the property.

22 (h) Any further details in connection with the property which the  
23 person executing the declaration may deem desirable to set forth con-  
24 sistent with this Act.

25 (i) The method by which the declaration may be amended, consist-  
26 ent with the provisions of this Act.

1 **SEC. 5. Contents of Deeds of Apartments:** Deeds of apartments  
2 shall include the following particulars.

3 (a) Description of the land as provided in section four (4) of this  
4 Act, including the book, page and date of recording of the declaration.

5 (b) The apartment number of the apartment in the declaration and  
6 any other data necessary for its proper identification.

7 (c) The percentage of undivided interest appertaining to the apart-  
8 ment in the common areas and facilities.

9 (d) Any further details which the grantor and grantee may deem  
10 desirable to set forth consistent with the declaration and this Act.

1 **SEC. 6. Copy of the Floor Plans to be Filed:** There shall be at-  
2 tached to the declaration, at the time it is filed, a full and an exact  
3 copy of the plans of the building, which copy of the plans shall be  
4 entered of record along with the declaration. Said plans shall show  
5 graphically all particulars of the building including, but not limited to,  
6 the dimensions, area and location of common elements affording access  
7 to each apartment. Other common elements, both limited and general,  
8 shall be shown graphically in so far as possible and shall be certified  
9 to by an engineer or architect authorized and licensed to practice his  
10 profession in this state.

1 **SEC. 7. Interest in Common Elements; Reference to Them in In-**  
2 **strument:**

3 (a) The fractional or percentage interest in the general common  
4 elements and the fractional or percentage interest in the limited com-  
5 mon elements where such exist are hereby declared to be appurtenant  
6 to each of the separate apartments.

7 (b) Any conveyance, encumbrance, lien, alienation or devise of an  
8 apartment under a horizontal property regime by any instrument  
9 which describes the land and apartment as set forth in section four  
10 (4) shall also convey, encumber, alienate, devise or be a lien upon the  
11 fractional or percentage interest appurtenant to each such apartment  
12 under section four (4), paragraph (f), to the general common ele-  
13 ments, and the respective share or percentage interest to limited com-  
14 mon elements where applicable, whether such general common ele-  
15 ments or limited common elements are described as in section four (4),  
16 paragraphs (d) and (e), by general reference only, or not at all.

1 **SEC. 8. Removal from Provisions of This Act:**

2 (a) All of the apartment owners may remove a property from the  
3 provisions of this Act by an instrument to that effect, duly recorded,  
4 provided that the holders of all liens affecting any of the apartments  
5 consent thereto or agree, in either case by instruments duly recorded,  
6 that their liens be transferred to the percentage of the undivided in-  
7 terest of the apartment owner in the property as hereinafter pro-  
8 vided.

9 (b) Upon removal of the property from the provisions of this Act,

10 the property shall be deemed to be owned in common by the apartment  
11 owners. The undivided interest in the property owned in common  
12 which shall appertain to each apartment owner shall be the percentage  
13 of undivided interest previously owned by such owner in the common  
14 area and facilities.

1 **SEC. 9. Removal No Bar to Subsequent Resubmission:** The remov-  
2 al provided for in the preceding section shall in no way bar the subse-  
3 quent resubmission of the property to the provisions of this Act.

1 **SEC. 10. Individual Apartments and Interest in Common Elements**  
2 **are Alienable:** When real property containing a building is committed  
3 to a horizontal property regime, each individual apartment located  
4 therein and the interests in the general common elements and limited  
5 common elements if any, appurtenant thereto, shall be vested as, and  
6 shall be as completely and freely alienable as any separate parcel of  
7 real property is or may be under the laws of this state, except as lim-  
8 ited by the provisions of this Act.

1 **SEC. 11. Real Property Tax and Special Assessments; Levy on**  
2 **Each Apartment:**

3 (a) All real property taxes and special assessments shall be levied  
4 on each apartment and its respective appurtenant fractional share or  
5 percentage of the land, general common elements and limited common  
6 elements where applicable as such apartments and appurtenances are  
7 separately owned, and not on the entire horizontal property regime.

8 (b) Any exemption from taxes that may exist on real property or  
9 the ownership thereof shall not be denied by virtue of the registration  
10 of the property under the provisions of this Act.

1 **SEC. 12. Liens Against Apartments; Removal from Lien; Effect of**  
2 **Part Payment:**

3 (a) Subsequent to recording the declaration provided for in section  
4 three (3), and while the property remains enrolled in a horizontal  
5 property regime, no lien shall thereafter arise or be effective against  
6 the property. During such period liens or encumbrances shall arise or  
7 be created only against the individual apartment and the general com-  
8 mon elements and limited common elements where applicable, appur-  
9 tenant to such apartment, in the same manner and under the same  
10 conditions in every respect as liens or encumbrances may arise or be  
11 created upon or against any other separate parcel of real property  
12 subject to individual ownership.

13 (b) In the event a lien against two or more apartments becomes  
14 effective, the owners of the separate apartments may remove their  
15 apartment and the general common elements and limited common ele-  
16 ments where applicable appurtenant to such apartment from the lien  
17 by payment of the fractional or proportional amounts attributable to  
18 each of the apartments affected. Such individual payments shall be  
19 computed by reference to the fractions or percentages appearing on  
20 the declaration provided for in section four (4), paragraph (f). Sub-  
21 sequent to any such payment, discharge or other satisfaction the in-

22 individual apartment and the general common elements and limited  
23 common elements applicable appurtenant thereto shall thereafter be  
24 free and clear of the lien so paid, satisfied or discharged. Such partial  
25 payment, satisfaction or discharge shall not prevent the lienor from  
26 proceeding to enforce his rights against any apartment and the gen-  
27 eral common elements, limited common elements where applicable  
28 appurtenant thereto not so paid, satisfied or discharged.

1 **SEC. 13. Limitation upon Availability of Partition; Exception as**  
2 **to Limitation of Partition by Joint Ownership:**

3 (a) The provisions of chapter six hundred fifty-one (651), Code  
4 1962, relating to partition of real property shall not be available to  
5 any owner of any interest in real property included within a regime  
6 established under this Act as against any other owner or owners of any  
7 interest or interests in the same regime, so as to terminate the regime.

8 (b) Nothing contained in the Act shall be construed as a limitation  
9 on partition by joint owners of one or more apartments in a regime as  
10 to individual ownership of such apartment or apartments without ter-  
11 minating the regime, or as to ownership of such apartment or apart-  
12 ments and lands outside the limits of the regime.

1 **SEC. 14. Bylaws:** The administration of every property shall be  
2 governed by bylaws, a true copy of which shall be annexed to the  
3 declaration and made a part thereof. No modification of or amendment  
4 to the bylaws shall be valid unless set forth in an amendment to the  
5 declaration and such amendment is duly recorded.

1 **SEC. 15. Contents of Bylaws:** The bylaws must provide for at least  
2 the following:

3 (a) The form of administration, indicating whether this shall be in  
4 charge of an administrator or of a board of administration, or other-  
5 wise, and specifying the powers, manner of removal, and, where proper,  
6 the compensation thereof.

7 (b) Method of calling or summoning the co-owners to assemble;  
8 what percentage, if other than a majority of apartment owners, shall  
9 constitute a quorum; who is to preside over the meeting and who will  
10 keep the minute book wherein the resolutions shall be recorded.

11 (c) Maintenance, repair and replacement of the common areas and  
12 facilities and payments therefor including the method of approving  
13 payment vouchers.

14 (d) Manner of collecting from the apartment owners their share of  
15 the common expenses.

16 (e) Designation and removal of personnel necessary for the mainte-  
17 nance, repair and replacement of the common areas and facilities.

18 (f) The percentage of votes required to amend the bylaws.

1 **SEC. 16. Disposition of Property; Destruction or Damage:** If with-  
2 in thirty (30) days of the date of the damage or destruction to all or  
3 part of the property, it is not determined by the Council of co-owners  
4 to repair, reconstruct or rebuild, then and in that event:

5 (a) The property shall be deemed to be owned in common by the  
6 apartment owners;

7 (b) The undivided interest in the property owned in common which  
 8 shall appertain to each apartment owner shall be the percentage of  
 9 undivided interest previously owned by such owner in the common  
 10 areas and facilities;

11 (c) Any liens affecting any of the apartments shall be deemed to be  
 12 transferred in accordance with the existing priorities to the percent-  
 13 age of the undivided interest of the apartment owner in the property  
 14 as provided herein; and

15 (d) The property shall be subject to an action for partition at the  
 16 suit of any apartment owner, in which event the net proceeds of sale,  
 17 together with the net proceeds of the insurance on the property, if  
 18 any, shall be considered as one fund and shall be divided among all the  
 19 apartment owners in a percentage equal to the percentage of undivided  
 20 interest owned by each owner in the property, after first paying out of  
 21 the respective shares of the apartment owners, to the extent sufficient  
 22 for the purpose, all liens on the undivided interest in the property  
 23 owned by each apartment owner.

1 SEC. 17. Severability: If any provision of this Act or any section,  
 2 sentence, clause, phrase or word, or the application thereof in any cir-  
 3 cumstances is held invalid, the validity of the remainder of the Act  
 4 and of the application of any such provision, section, sentence, clause,  
 5 phrase or word in any other circumstances shall not be affected  
 6 thereby.

Approved March 15, 1963.

## CHAPTER 294

### DISPOSAL OF SECURITIES DEFINED

H. F. 320

AN ACT relating to definitions under the Iowa securities law.

*Be It Enacted by the General Assembly of the State of Iowa:*

1 SECTION 1. Section five hundred two point three (502.3), Code  
 2 1962, subsection three (3), is hereby amended by inserting after the  
 3 word "of," in line three (3) the words "or attempt to dispose of,".

Approved April 29, 1963.