

may be filled by the affirmative vote of a majority of the remaining directors ~~then-in-office, even-if~~ though less than a quorum of the board of directors. ~~Unless-otherwise-provided in-the-articles-of-incorporation-or-the-bylaws,~~ a A director ~~se~~ elected to fill a vacancy shall be elected for the unexpired term of his or her predecessor in office ~~or-the-full-term of-such-new-directorship~~. Any directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors for a term of office continuing only until the next election of directors by the shareholders.

Sec. 5. This Act is effective January 1, 1978.

Approved July 5, 1977

CHAPTER 127

CORPORATIONS CHANGE TO CO-OPERATIVES

H. F. 338

AN ACT to provide that corporations organized under chapter four hundred ninety-one (491) or chapter four hundred ninety-six A (496A) of the Code may elect to become cooperative associations under chapter four hundred ninety-nine (499) of the Code.

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

Section 1. Chapter four hundred ninety-nine (499), Code 1977, is amended by adding sections two (2) through six (6) of this Act.

Sec. 2. NEW SECTION. CONVERSION TO CHAPTER FOUR HUNDRED NINETY-NINE (499) COOPERATIVE ASSOCIATION. A corporation organized under chapter four hundred ninety-one (491) or chapter four hundred ninety-six A (496A) of the Code may become a cooperative association under chapter four hundred ninety-nine (499) of the Code when authorized in the following manner:

1. The board of directors shall adopt a resolution recommending that the corporation be converted to a cooperative association under chapter four hundred ninety-nine (499) of the Code. This resolution shall include proposed amendments to the corporation's articles of incorporation which amendments are necessary or desirable so the corporation may conform to the structure and organization required of cooperative associations regulated by chapter four hundred ninety-nine (499) of the Code. The resolution shall also direct that

the question of the conversion be submitted to a vote at a meeting of shareholders. The shareholder meeting may be either an annual or a special meeting.

2. Written or printed notice of the shareholder meeting shall be delivered either personally or by mail not less than twenty days before the meeting to each shareholder of record. The notice shall state the place, day, hour and purpose of the meeting. A copy and summary of the plan of conversion including a copy and summary of proposed amendments to the articles of incorporation shall be included in or enclosed with the notice.

3. At the shareholder meeting a vote of the shareholders entitled to vote shall be taken on the resolution including the proposed article changes to convert the corporation. The plan of conversion shall be adopted upon receiving the affirmative vote of the holders of at least two-thirds of the outstanding shares of the corporation which shares were entitled to vote at such meeting, unless any class of shares is entitled to vote as a class. In the event any class of shares is entitled to vote as a class, the resolution shall require for its adoption the affirmative vote of the holders of at least a majority of the outstanding shares of each class entitled to vote as a class thereon and two-thirds of the total outstanding shares entitled to vote at the meeting.

4. Upon shareholder approval, the plan of conversion and article amendments shall be executed on behalf of the corporation by its president or a vice president and by its secretary or an assistant secretary, and shall be verified by one of the officers signing a statement, which statement shall set forth:

- a. The name of the corporation.
- b. A copy of the plan of conversion adopted by the shareholders including the amended articles of incorporation.
- c. The number of shares of stock outstanding; the number of shares entitled to vote; if the shares of any class were entitled to vote as a class; the designation of each class and the number of shares of that class entitled to vote.
- d. The number of shares voted for and against the plan of conversion, respectively. If the shares of any class were entitled to vote as a class, the number of shares of each class that voted for and against the plan, respectively.

Sec. 3. NEW SECTION. FILING OF CONVERSION PLAN AND NEW ARTICLES. A duly executed and acknowledged copy of the

articles of incorporation as amended of the converted corporation shall be forwarded to the secretary of state for filing and recording. Upon approving the articles and payment of fees as provided in section four hundred ninety-nine point forty-five (499.45) of the Code, the secretary of state shall issue a new certificate of incorporation and shall forward the articles to the county recorder of the county where the newly converted association has its principal place of business. Upon the issuance of the new certificate of incorporation the converted corporation's chapter four hundred ninety-one (491) or chapter four hundred ninety-six A (496A) character shall cease and the chapter four hundred ninety-nine (499) existence shall begin unless the certificate in conformity with the amended articles of incorporation provides that it shall become effective on a stated day not more than ninety days in the future. In the event the articles indicate a future effective date, the conversion shall become effective on the day stated without further action by either the corporation or secretary of state.

Sec. 4. NEW SECTION. NOTICE. Notice of the corporation's conversion to a chapter four hundred ninety-nine (499) cooperative association shall be given as provided in sections four hundred ninety-one point seventeen (491.17) and four hundred ninety-one point eighteen (491.18) of the Code. Included in the notice shall be a brief explanation that the corporation has changed its corporate form to a chapter four hundred ninety-nine (499) cooperative association.

Sec. 5. NEW SECTION. EFFECT OF CONVERSION. When the conversion to a chapter four hundred ninety-nine (499) cooperative association has become effected:

1. The converted corporation shall be subject to all the duties and liabilities of a cooperative association under chapter four hundred ninety-nine (499) of the Code as if the corporation was initially organized under chapter four hundred ninety-nine (499) of the Code.

2. The converted corporation shall possess all the rights, privileges, immunities and franchises inuring to it before the conversion except those which the corporation possessed only because it was incorporated under chapter four hundred ninety-one (491) or chapter four hundred ninety-six A (496A) of the Code. The converted corporation shall possess all property, real, personal and mixed and all debts due on whatever account, including subscriptions to shares, and all other choses in action, and every other interest belonging

or due to or vesting in the corporation. These property rights shall be taken and deemed to be transferred to and vested in the converted corporation without further action. Title to any real estate, or any interest therein, vested in any such corporation shall not revert or be in any way impaired by reason of such conversion.

3. The converted corporation shall be responsible and liable for all the liabilities and obligations incurred while it was organized under chapter four hundred ninety-one (491) or chapter four hundred ninety-six A (496A) of the Code. Any claim existing or action or proceeding pending by or against any such corporation may be prosecuted to judgment as if the conversion had not taken place, or the new cooperative association may be substituted in its place. The rights of creditors and liens upon the property of the converted corporation shall not be impaired by the conversion.

Sec. 6. NEW SECTION. RIGHTS OF DISSENTING SHAREHOLDERS.

1. A shareholder of a corporation whose board of directors adopted a resolution recommending conversion to a cooperative association shall be entitled to the dissenting shareholder's rights pursuant to this section if the shareholder does the following:

- a. Files with the corporation a written objection to the resolution prior to or at the shareholder meeting at which the conversion resolution is submitted to vote, and
- b. Refrains from voting in favor of the conversion resolution, and
- c. Within twenty days after the shareholder vote, makes a written demand on the corporation for a payment of the fair value of his or her shares as of the day prior to the date on which the shareholder vote was taken approving the conversion. This demand shall state the number and class of the shares owned by the dissenting shareholder.

2. Upon the surrender of the shareholder's certificate or certificates representing the shares, the converted corporation shall pay the shareholder who complied with subsection one (1) of this section, the fair value for the shares. Any shareholder failing to comply with subsection one (1) of this section shall be presumed to have consented to the conversion and shall be bound by the terms of the conversion.

3. If within thirty days after the shareholder vote, the value of the dissenting shareholder's shares is agreed upon

by the dissenting shareholder and the corporation, payment for those shares shall be made within ninety days after the shareholder vote, upon the surrender of the shareholder's certificate or certificates representing the shares. Upon payment of the agreed value the dissenting shareholder shall cease to have any interest in the shares or in the converted corporation.

4. If within thirty days after the shareholder vote, the value of the dissenting shareholder's shares is not agreed upon by the dissenting shareholder and the corporation, the dissenting shareholder may within sixty days after the expiration of this thirty-day period, file a petition in the district court of the district in which is located the registered office or principal place of business of the converted corporation. This petition shall ask for a finding and determination of the fair value of these shares and the dissenting shareholder shall be entitled to judgment against the converted corporation for the amount of the fair value of the shares valued at the day prior to the date on which the shareholder vote was taken approving the conversion. The dissenting shareholder shall also be entitled to interest at the legal rate from the date of such judgment. The action, if filed, shall be prosecuted as an equitable action and the practice and procedure shall conform to the practice and procedure in equity cases.

The court's judgment shall be payable only upon and simultaneously with the surrender to the converted corporation of the certificate or certificates representing the shares. Upon payment of the judgment, the dissenting shareholder shall cease to have any interest in such shares, or in the converted corporation. Unless the dissenting shareholder shall file such petition within the time specified, such shareholder and all persons claiming under the shareholder shall be presumed to have approved and ratified the conversion resolution and shall be bound by its terms.

5. The right of a dissenting shareholder to be paid the fair value of his or her shares as herein provided shall cease if and when the corporation shall abandon the plan of conversion.

6. Shares acquired by the corporation pursuant to the payment of the agreed value or pursuant to payment of a judgment entered into pursuant to this section may be held and disposed of by the corporation as it may see fit.

Sec. 7. Chapter four hundred ninety-one (491), Code 1977,

is amended by adding the following new section:

NEW SECTION. CONVERSION TO COOPERATIVE ASSOCIATION. A corporation incorporated under this chapter may become a cooperative association under chapter four hundred ninety-nine (499) of the Code by complying with the procedures established in sections one (1) through six (6) of this Act.

Sec. 8. Chapter four hundred ninety-six A (496A), Code 1977, is amended by adding the following new section:

NEW SECTION. CONVERSION TO COOPERATIVE ASSOCIATION. A corporation incorporated under this chapter may become a cooperative association under chapter four hundred ninety-nine (499) of the Code by complying with the procedures established in sections one (1) through six (6) of this Act.

Sec. 9. The provisions of this Act are repealed effective July 1, 1979.

Approved July 9, 1977

CHAPTER 128 NONPROFIT CORPORATIONS

S. F. 239

AN ACT relating to nonprofit corporations.

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

Section 1. Section five hundred four point three (504.3), Code 1977, is amended to read as follows:

504.3 EXISTING CORPORATIONS--REINCORPORATION. Any corporation not for pecuniary profit, incorporated in the state prior to July 4, 1943, which may seek to reincorporate or renew its corporate existence, shall proceed in the same manner as provided in section ~~504.4~~ five hundred four point eighteen (504.18) of the Code.

Sec. 2. Section five hundred four point eighteen (504.18), Code 1977, is amended to read as follows:

504.18 REINCORPORATION ~~AFTER-EXPIRATION-OF-TERM.~~ The trustees, directors, or members of any corporation organized under this chapter may reincorporate the corporation, and all the property and rights of the corporation shall vest in the corporation as reincorporated. When the term of incorporation of a corporation organized under this chapter has expired, but the organization has continued to act as