

## CHAPTER 29

### TUITION AND FEE INCREASES FOR REGENTS' INSTITUTIONS

*S.F. 146*

**AN ACT** relating to the time of making decisions for and notice of final decisions for increases in tuition, fees, or charges at institutions of higher education under the control of the state board of regents.

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

Section 1. Section 262.9, subsection 18, Code 1991, is amended to read as follows:

18. Not less than thirty days prior to action by the board on any proposal to increase tuition, fees, or charges at one or more of the institutions of higher education under its control, send written notification of the amount of the proposed increase including a copy of the proposed tuition increase docket memorandum prepared for its consideration to the presiding officers of the student government organization of the affected institutions. The final decision on the an increase in tuition or mandatory fees charged to all students at an institution for a fiscal year shall be made no later than the regular meeting held in November of the preceding fiscal year and shall be reflected in a final docket memorandum that states the estimated total cost of attending each of the institutions of higher education under the board's control. The regular meeting held in November shall be held in Ames, Cedar Falls, or Iowa City and shall not be held during the period in which classes have been suspended for Thanksgiving vacation.

Approved April 15, 1991

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## CHAPTER 30

### COOPERATIVE OWNERSHIP OF RESIDENTIAL, BUSINESS PROPERTY

*S.F. 477*

**AN ACT** relating to cooperative ownership of residential, business property, providing an applicability date, and providing an effective date.

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

Section 1. Section 499A.1, Code 1991, is amended to read as follows:  
499A.1 ARTICLES.

Any two or more persons of full age, a majority of whom ~~shall be~~ are citizens of the state, may organize themselves for the following or similar purposes: Ownership of residential, business property on a ~~co-operative~~ cooperative basis. A corporation is a person within the meaning of this chapter. The organizers shall adopt, and sign and acknowledge the articles of ~~co-operation~~ incorporation, stating the name by which the ~~co-operation~~ cooperative shall be known, the location of its principal place of business, its business or objects, the number of ~~trustees, directors, managers or other officers~~ to conduct the ~~same~~ cooperative's business or objects, the names ~~thereof~~ of the directors for the first year, the time of ~~its~~ the cooperative's annual meeting, and the ~~time~~ of the annual meeting of its ~~trustees, or~~ directors, and the manner in which the articles may be amended. ~~Said~~ The articles of ~~co-operation~~ incorporation shall be filed with the secretary of state who shall, if the secretary approves the ~~same~~ indorse articles, ~~endorse~~, the secretary of state's approval ~~thereon~~ on the articles, record the ~~same~~ articles, and ~~thereafter~~ forward the ~~same~~ articles to the county recorder of the county where the principal place of business is to be located, and there it ~~the~~ articles shall be recorded, and upon recording

be returned to the ~~co-operation~~ cooperative. The said articles shall not be filed by the secretary of state until a filing fee of five dollars together with a recording fee of fifty cents per page is paid, and upon the payment of said the fees and the approval of the articles by the secretary of state, the secretary shall issue to ~~said co-operation~~ the cooperative a certificate of ~~co-operation~~ incorporation as a ~~co-operation~~ cooperative not for pecuniary profit.

Amendments to the articles ~~may~~ shall be filed and receive approval as provided ~~herein~~ in this chapter for articles, and the fee ~~therefor~~ for amendments shall be five dollars in each instance, and ~~no~~. An amendment shall be is not effective until the same amendment is approved and the fee ~~therefor~~ is paid.

Sec. 2. Section 499A.3, Code 1991, is amended to read as follows:  
499A.3 MEMBERS.

A ~~co-operation~~ may cooperative shall have only one or ~~more~~ classes class of members. The designation of ~~such that~~ class or classes and the qualifications and rights of the members of each the class shall be set forth in the articles of ~~co-operation~~ incorporation or the bylaws. The ~~co-operation~~ cooperative must issue membership certificates or deeds evidencing membership or the ownership of a particular interest therein of each member of the cooperative.

Sec. 3. Section 499A.4, Code 1991, is amended to read as follows:  
499A.4 DIVIDENDS.

No ~~A~~ dividend or distribution of property among the ~~stockholders~~ members shall not be made until dissolution of the ~~co-operation~~ cooperative.

Sec. 4. Section 499A.7, Code 1991, is amended to read as follows:  
499A.7 REORGANIZING PRIOR TO EXPIRATION OF TERM.

The ~~trustees~~, directors, or members of any ~~co-operation~~ cooperative organized under this chapter may reorganize the same cooperative, and all the property and rights ~~thereof~~ of the cooperative shall vest in the ~~co-operation~~ cooperative as reorganized.

Sec. 5. Section 499A.11, Code 1991, is amended to read as follows:  
499A.11 CERTIFICATE OF OWNERSHIP.

The ~~co-operative~~ association shall have cooperative has the right to purchase real estate for the purpose of erecting, owning, and operating apartment houses or apartment buildings and the members shall be the owners thereof. The interest of each individual member in the cooperative shall be evidenced by the issuance of a certificate of ownership or deed to a particular apartment or room therein. Such membership. The certificate of membership is coupled with a possessory interest in the real and personal property of the cooperative, entitling each member to a proprietary lease with the cooperative under which each member has an exclusive possessory interest in an apartment unit and a possessory interest in common with all other members in that portion of the cooperative's real and personal property not constituting apartment units, and which creates a legal relationship of landlord and tenant between the cooperative and member. The certificate of ownership or deed membership shall be executed by the president of the co-operation cooperative and attested by its secretary in the name and in the behalf of the co-operation cooperative.

Sec. 6. Section 499A.14, Code 1991, is amended to read as follows:  
499A.14 TAXATION.

The real estate shall be taxed in the name of the ~~co-operation~~ cooperative, and each person owning an apartment or room member of the cooperative shall pay that person's member's proportionate share of such the tax in accordance with the proration formula set forth in the bylaws, and each person owning member occupying an apartment as a residence and under the qualifications of the laws of the state of Iowa as such shall receive that person's member's proportionate homestead tax credit and each veteran of the military services of the United States identified as such under the laws of the state of Iowa or the United States shall receive as a credit that person's member's veterans tax benefit as prescribed by the laws of the state of Iowa.

Sec. 7. NEW SECTION. 499A.17A BYLAWS.

The initial bylaws of the cooperative shall be adopted by the cooperative's board of directors. Prior to the admission of members to the cooperative, the power to alter, amend, or repeal the bylaws or adopt new bylaws is vested in the board of directors. Following the admission of members to the cooperative, the power to alter, amend, or repeal the bylaws or adopt new bylaws is vested in the members in accordance with the method set forth in the bylaws.

The bylaws may contain any provisions for the regulation and management of the affairs of the cooperative not inconsistent with law or the articles of incorporation. However, the bylaws must provide for:

1. The number of members of the board of directors and the term of the members.
2. The election of a president, vice president, treasurer, and secretary by the board of directors.
3. The qualifications, powers and duties, terms of office, and manner of electing and removing board members and officers and filling vacancies of such members.
4. The method of amending the bylaws.

Sec. 8. NEW SECTION. 499A.17B MEETINGS OF MEMBERS.

Meetings of members may be held at such places as may be provided in the articles of incorporation or the bylaws, or as may be fixed from time to time in accordance with the provisions of the articles or the bylaws. In the absence of any such provision, all meetings shall be held at the registered office of the cooperative.

An annual meeting of the members shall be held at such time as may be provided in the articles of incorporation or the bylaws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the cooperative.

Special meetings of the members may be called by the president or by the board of directors. Special meetings of the members may also be called by such officers or persons, or by a number or proportion of members as may be provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the number or proportion of members entitled to call a meeting, a special meeting of members may be called by members having one-twentieth of the votes entitled to be cast at the meeting.

Sec. 9. NEW SECTION. 499A.17C NOTICE OF MEMBERS MEETINGS.

Unless the articles of incorporation or the bylaws otherwise provide, written notice stating the place, day, and hour of the meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered no less than ten nor more than fifty days before the date of the meeting, either personally or by mail, by or at the direction of the president, the secretary, or the officer or persons calling the meeting, to each member entitled to vote at the meeting. If mailed, notice is deemed to be delivered when deposited in the United States mail addressed to the member at the member's address as it appears on the records of the cooperative, with postage prepaid.

Sec. 10. NEW SECTION. 499A.17D VOTING.

Each member is entitled to one vote on each matter submitted to a vote of the members. A membership interest in the cooperative jointly owned by two or more persons is nevertheless entitled to one vote.

A member entitled to vote may vote in person or by proxy in the manner prescribed in the bylaws.

Sec. 11. NEW SECTION. 499A.17E UPKEEP OF THE COOPERATIVE.

It is the duty of the cooperative to maintain generally all portions of the cooperative's real property other than the apartment units. The maintenance, repair, and replacement costs of the cooperative's real property shall be contributed to by each of the members in accordance with the proration formula set forth in the bylaws. Each member is responsible for maintenance and repair of the person's apartment unit in the manner provided for in the bylaws and as prescribed by each member's proprietary lease.

Sec. 12. NEW SECTION. 499A.17F LIEN FOR ASSESSMENTS.

1. The cooperative has a lien on a member's interest in the cooperative for all operating charges or other assessments payable by the member pursuant to the member's proprietary lease from the time the operating charge or other assessment becomes due. If carrying charges and assessments are payable in installments, the full amount of the charge or assessment is a lien from the first time the first installment becomes due. Upon nonpayment of a carrying charge or assessment, the member may be evicted from the member's apartment unit in the same manner as provided by law in the case of an unlawful holdover by a tenant and the lien may be foreclosed by judicial sale in like manner as a mortgage on real estate, or may be foreclosed by the power of sale provided in this section.

A lien under this section is prior to all other liens and encumbrances on a member's cooperative interest except liens and encumbrances on the cooperative's real property which the cooperative creates, assumes, or takes subject to, and liens for real estate taxes and other governmental assessments or charges against the cooperative or the member's cooperative interest.

2. The cooperative, upon a member's nonpayment of carrying charges and assessments and the cooperative's compliance with this section, may sell the defaulting member's cooperative interest. Sale may be at a public sale or by private negotiation, and at any time and place, but every aspect of the sale, including the method, advertising, time, place, and terms must be reasonable. The cooperative shall give to the member and any sublessees of the member reasonable written notice of the time and place of a public sale or, if a private sale is intended, of the intention of entering into a contract to sell and of the time after which a private disposition may be made. The same notice shall also be sent to any other person who has a recorded interest in the defaulting member's cooperative interest which would be extinguished by the sale. The notices required by this paragraph may be sent to any address reasonable under the circumstances. Sale may not be held until five weeks after the sending of the notice. The cooperative may buy at a public sale, and, if the sale is conducted by a fiduciary or other person not related to the cooperative, at a private sale.

3. The proceeds of a sale under the preceding paragraph shall be applied in the following order:

- a. The reasonable expenses of sale.
- b. The reasonable expenses of securing possession before sale, and the reasonable expenses of holding, maintaining, and preparing the cooperative interest for sale. These expenses include, but are not limited to the payment of taxes and other governmental charges, premiums on liability insurance, and to the extent provided for by agreement between the cooperative and the member, reasonable attorneys' fees and other legal expenses incurred by the cooperative.
- c. Satisfaction of the cooperative's lien.
- d. Satisfaction in the order of priority of any subordinate claim of record.
- e. Remittance of any excess to the member.

Unless otherwise agreed, the member is liable for any deficiency.

4. If a cooperative interest is sold pursuant to this section, a good faith purchaser for value acquires the member's interest in the cooperative free of the debt that gave rise to the lien under which the sale occurred, and free of any subordinate interest.

5. At any time before the cooperative has disposed of the cooperative interest or entered into a contract for its disposition under the power of sale, the member or the holder of any subordinate security interest may cure the member's default and prevent sale or other disposition by tendering the performance due, including any amounts due arising from the exercise of the rights under this section, plus the reasonable expenses of proceeding to foreclosure incurred to the time of tender, including reasonable attorneys' fees of the creditor.

6. The property of a member other than the member's membership interest in the cooperative is not subject to claims of the cooperative's creditors, whether or not the member's membership interest is subject to those claims.

Sec. 13. Section 499A.18, Code 1991, is amended to read as follows:

**499A.18 HOMESTEAD.**

The ownership of an Each individual apartment shall constitute constitutes a homestead and be is exempt from execution, provided the owner member otherwise qualifies within the laws of the state of Iowa for such exemption.

Sec. 14. Section 499A.19, Code 1991, is amended to read as follows:

**499A.19 ELECTION OF DIRECTORS.**

The directors authorized under this chapter shall be elected by the members of the co-operation cooperative. If one member owns more than one apartment that member may nevertheless have but one vote at such election. If any apartment or room is owned by more than one member they may, nevertheless, have but one vote at such election. The election of officers shall be made by the board of directors. The officers and board of directors may hire a custodian or janitor for reasonable compensation to generally serve and oversee the apartment building. The annual election of the directors shall be held during the month of January of each year, and they shall serve until their successors are elected and qualified.

The board of directors shall elect as officers, a president and, a vice president, a secretary, and a treasurer.

It shall be is the duty of the secretary to keep the records of the co-operation cooperative, and a correct list of the owners and lessees of each apartment members, and all such records shall be submitted to any apartment or room owner member upon demand at any reasonable time.

Sec. 15. Section 499A.20, Code 1991, is amended to read as follows:

**499A.20 TITLE OF ACT.**

This chapter subchapter shall be known and cited as "The Multiple Cooperative Housing Act of 1947."

Sec. 16. The Code editor shall editorially change references to "co-operation" in chapter 499A, not amended in this Act, to "cooperative", as appropriate.

Sec. 17. Sections 499A.5, 499A.6, 499A.12, 499A.13, 499A.15, 499A.16, 499A.17, and 499A.21 are repealed.

Sec. 18. This Act applies to any cooperative organized pursuant to chapter 499A on or after December 1, 1990.

Sec. 19. This Act, being deemed of immediate importance, is effective upon enactment.

Approved April 16, 1991

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**CHAPTER 31****MAXIMUM LENGTH OF VEHICLES AND DRAWBARS**

*H.F. 309*

**AN ACT** relating to maximum lengths of saddle mounted or full mounted power unit combination vehicles and the length of draw bar or other connections on certain towing vehicles.

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

Section 1. Section 321.457, subsection 1, Code 1991, is amended to read as follows:

1. A combination of four vehicles is not allowed on the highways of this state, except for power units saddle mounted on other power units which shall be restricted to a maximum overall length of sixty-five feet unless subject to the maximum length provisions of subsection 3.