

Secretary

FILED FEB 21 1989

SENATE FILE 259
BY GRONSTAL

(COMPANION TO LSB 1830H
BY KREMER)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the liability of an association or corporation
2 resulting from services provided by the association or
3 corporation.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

SF 259

1 Section 1. Section 497.33, Code 1989, is amended to read
2 as follows:

3 497.33 PERSONAL LIABILITY.

4 Except as otherwise provided in this chapter, a director,
5 officer, employee, or member stockholder of the corporation is
6 not liable on the corporation's debts or obligations and a
7 director, officer, member stockholder, or other volunteer is
8 not personally liable in that capacity, for a claim based upon
9 an act or omission of the person performed in the discharge of
10 the person's duties, except for a breach of the duty of
11 loyalty to the corporation, for acts or omissions not in good
12 faith or which involve intentional misconduct or knowing
13 violation of the law, or for a transaction from which the
14 person derives an improper personal benefit.

15 Sec. 2. Section 497.34, Code 1989, is amended to read as
16 follows:

17 497.34 INDEMNIFICATION.

18 A cooperative association operating under this chapter may
19 indemnify any present or former director, officer, employee,
20 member stockholder, or volunteer in the manner and in the
21 instances authorized in section 496A.4A, provided that where
22 section 496A.4A provides for action by shareholders the
23 section is applicable to action by ~~voting-members~~ stockholders
24 of the cooperative association, and where section 496A.4A
25 refers to the corporation organized under chapter 496A the
26 section is applicable to the cooperative association organized
27 under this chapter, and where section 496A.4A refers to the
28 director the section is applicable to a director, officer,
29 employee, member stockholder, or volunteer of the cooperative
30 association organized under this chapter.

31 Sec. 3. NEW SECTION. 497.35 LIABILITY OF ASSOCIATION
32 LIMITED.

33 Except as otherwise provided in this chapter, an
34 association, or a director, officer, employee, stockholder, or
35 volunteer of the association is not liable for a claim based

1 upon an act or omission of the association, or a director,
2 officer, employee, stockholder, or volunteer of the
3 association in providing services to a stockholder of the
4 association where an agreement has been entered into between
5 the stockholder and the association for the performance of
6 those services which eliminates or limits such liability,
7 except that liability for a breach of the duty of loyalty to
8 the association, for acts or omissions not in good faith or
9 which involve intentional misconduct or knowing violation of
10 the law, or for a transaction from which the person derives an
11 improper personal benefit shall not be eliminated or limited.

12 Sec. 4. NEW SECTION. 498.37 LIABILITY OF CORPORATION
13 LIMITED.

14 Except as otherwise provided in this chapter, an
15 association, or a director, officer, employee, member, or
16 volunteer of the association is not liable for a claim based
17 upon an act or omission of the association, or a director,
18 officer, employee, member, or volunteer of the association in
19 providing services to a member of the association where an
20 agreement has been entered into between the stockholder and
21 the association for the performance of those services which
22 eliminates or limits such liability, except that liability for
23 a breach of the duty of loyalty to the association, for acts
24 or omissions not in good faith or which involve intentional
25 misconduct or knowing violation of the law, or for a
26 transaction from which the person derives an improper personal
27 benefit shall not be eliminated or limited.

28 Sec. 5. NEW SECTION. 499.59B LIABILITY OF COOPERATIVE
29 ASSOCIATION LIMITED.

30 Except as otherwise provided in this chapter, a cooperative
31 association, or a director, officer, employee, member, or
32 volunteer of the cooperative association is not liable for a
33 claim based upon an act or omission of the cooperative
34 association, or a director, officer, employee, member, or
35 volunteer of the association in providing services to a member

1 of the cooperative association where an agreement has been
2 entered into between the member and the cooperative
3 association for the performance of those services which
4 eliminates or limits such liability, except that liability for
5 a breach of the duty of loyalty to the cooperative
6 association, for acts or omissions not in good faith or which
7 involve intentional misconduct or knowing violation of the
8 law, or for a transaction from which the person derives an
9 improper personal benefit shall not be eliminated or limited.

10 Sec. 6. NEW SECTION. 504A.102 LIABILITY OF CORPORATION
11 LIMITED.

12 Except as otherwise provided in this chapter, a
13 corporation, or a director, officer, employee, member, or
14 volunteer of the corporation is not liable for a claim based
15 upon an act or omission of the corporation, or a director,
16 officer, employee, member, or volunteer of the corporation in
17 providing services to a member of the corporation where an
18 agreement has been entered into between the member and the
19 corporation for the performance of those services which
20 eliminates or limits such liability, except that liability for
21 a breach of the duty of loyalty to the corporation, for acts
22 or omissions not in good faith or which involve intentional
23 misconduct or knowing violation of the law, or for a
24 transaction from which the person derives an improper personal
25 benefit shall not be eliminated or limited.

26 EXPLANATION

27 This bill provides that associations and corporations
28 organized under chapters 497, 498, 499, and 504A, their
29 directors, officers, employees, members or stockholders, or
30 volunteers, are not liable for any claim based upon an act or
31 omission in providing services to the member or stockholder
32 where an agreement has been entered into between the member or
33 stockholder and the association or corporation eliminating or
34 limiting that liability. This limitation has no effect for
35 acts constituting a breach of duty of loyalty to the

1 corporation, for acts or omissions not in good faith or which
2 involve intentional misconduct or knowing violation of the
3 law, or for a transaction from which the person derives an
4 improper personal benefit.

5 The bill includes corrective amendments to chapter 497.

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35