

CHAPTER 1141**MANAGEMENT OF COOPERATIVE ASSOCIATIONS***S.F. 2348*

AN ACT relating to the management of cooperative associations.

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

Section 1. NEW SECTION. 499.36A STANDARDS OF CONDUCT FOR DIRECTORS.

1. A director shall discharge the duties of the position of director in good faith, in a manner the director reasonably believes to be in the best interests of the association, and with the care that a person in a like position would reasonably believe appropriate under similar circumstances. A person who so performs those duties is not liable by reason of being or having been a director of the cooperative.¹

2. a. A director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

(1) One or more officers or employees of the association whom the director reasonably believes to be reliable and competent in the matters presented.

(2) Legal counsel, public accountants, or other persons as to matters that the director reasonably believes are within the person's professional or expert competence.

(3) A committee of the board upon which the director does not serve, duly established by the board as to matters within its designated authority, if the director reasonably believes the committee to merit confidence.

b. Paragraph "a" does not apply to a director who has knowledge concerning the matter in question that makes the reliance otherwise permitted by that paragraph unwarranted.

3. A director who is present at a meeting of the board when an action is approved by the affirmative vote of a majority of the directors present is presumed to have assented to the action approved, unless any of the following applies:

a. The director objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened, and does not participate in the meeting after the objection, in which case the director is not considered to be present at the meeting for any purpose of this chapter.

b. The director votes against the action at the meeting.

c. The director is prohibited by a conflict of interest from voting on the action.

4. In discharging the duties of a director, the director may, in addition to consideration of the effects of any action on the association and its members, consider any or all of the following community interest factors:

a. The effects of the action on the association's employees, suppliers, creditors, and customers.

b. The interests of and effects on communities and the cooperative system in which the association and its members operate.

c. The long-term as well as short-term interests of the association and its members, including the possibility that these interests may be best served by the continued independence of the association.

Sec. 2. NEW SECTION. 499.37A STANDARDS OF CONDUCT FOR OFFICERS.

1. An officer, when performing in such capacity, shall act in conformity with all of the following:

a. In good faith.

b. With the care that a person in a like position would reasonably exercise under similar circumstances.

c. In a manner the officer reasonably believes to be in the best interests of the association.

¹ According to enrolled Act; the word "association" probably intended

2. In discharging the officer's duties, an officer who does not have knowledge that makes such reliance unwarranted is entitled to rely on any of the following:

a. The performance of properly delegated responsibilities by one or more employees of the association whom the officer reasonably believes to be reliable and competent in performing the responsibilities delegated.

b. Information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by one or more employees of the association whom the officer reasonably believes to be reliable and competent in the matters presented.

c. Legal counsel, public accountants, or other persons retained by the association as to matters involving skills or expertise the officer reasonably believes are matters within the particular person's professional or expert competence or as to which the particular person merits confidence.

3. An officer shall not be liable as an officer to the association or its members for any decision to take or not to take action, or any failure to take any action, if the duties of the officer are performed in compliance with this section. Whether an officer who does not comply with this section is liable depends in such instance on applicable law, including those principles of section 499.36A that have relevance.

Sec. 3. NEW SECTION. 499.41A GREATER VOTING REQUIREMENTS.

An amendment to the articles of incorporation of an association that adds, changes, or deletes a greater voting or quorum requirement by the members than required by this chapter must be adopted by the voting or quorum requirements then in effect or proposed to be adopted, whichever is greater.

Sec. 4. Section 499.47B, subsections 1 and 3, Code 2007, are amended to read as follows:

1. The board of directors shall adopt a resolution recommending the sale, lease, exchange, or other disposition and directing the submission thereof to a vote at a meeting of the membership, which may either be an annual or a special meeting. The board of directors may condition its recommendation and submission of the sale, lease, exchange, or other disposition to the members for approval under this section on any basis.

3. At the meeting the membership may authorize the sale, lease, exchange, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the cooperative association. Such authorization shall for the sale, lease, exchange, or other disposition shall be approved by the members as follows:

a. Except as provided in paragraph "b", the sale, lease, exchange, or other disposition must be approved if by a two-thirds vote of the members vote affirmatively on a ballot in which a majority of all voting members participate.

b. (1) If the cooperative association's articles of incorporation require approval by more than two-thirds of its members on a ballot in which a majority of all voting members participate, the sale, lease, exchange, or other disposition must be approved by the greater number as provided in the articles of incorporation.

(2) If the board of directors adopts additional conditions for the approval of the sale, lease, exchange, or other disposition as provided in subsection 1, the additional conditions must be satisfied in order for the sale, lease, exchange, or other disposition to be approved.

Sec. 5. NEW SECTION. 499.47D CONSIDERATION OF ACQUISITION PROPOSALS — COMMUNITY INTERESTS.

1. A director, in determining what is in the best interest of the association when considering a tender offer or proposal of acquisition, proposal of merger, proposal of consolidation, or similar proposal, may, in addition to consideration of the effects of any action on the association and its members, consider any or all of the community interest factors described in section 499.36A.

2. If on the basis of the community interest factors described in section 499.36A, the board of directors determines that a tender offer or proposal to acquire, merge, or consolidate the

association or any similar proposal is not in the best interests of the association, it may reject the tender offer or proposal. If the board of directors rejects any such tender offer or proposal, the board of directors has no obligation to facilitate, to remove any barriers to, or to refrain from impeding the tender offer or proposal. Consideration of any or all of the community interest factors is not a violation of the business judgment rule or of any duty of the director to the members, or a group of members, even if the director reasonably determines that a community interest factor or factors outweigh the financial or other benefits to the association or a member or group of members.

Sec. 6. Section 499.64, Code 2007, is amended to read as follows:
499.64 VOTE OF MEMBERS.

1. The board of directors of a cooperative association, upon ~~approving~~ recommending a plan of merger or consolidation ~~be approved by the members~~, shall, by motion or resolution, direct that the plan be submitted to a vote at a meeting of members, which may be either an annual or special meeting. The board of directors may condition its recommendation and submission of a plan of merger or consolidation to the members for approval under this section on any basis. Written notice shall be given not less than twenty days prior to the meeting, either personally or by mail to each voting member and shareholder of record. The notice shall state the time, place, and purpose of the meeting, and a summary of the plan of merger or consolidation shall be included in or enclosed with the notice.

2. At the meeting, a ballot of the members who are entitled to vote in the affairs of the association shall be taken on the proposed plan of merger or consolidation. The plan of merger or consolidation shall be approved ~~if as follows:~~

a. ~~Except as provided in paragraph "b", the proposed plan of merger or consolidation must be approved by a two-thirds vote of the members vote affirmatively on a ballot in which a majority of all voting members participate.~~

b. (1) If the cooperative association's articles of incorporation require approval by more than two-thirds of its members on a ballot in which a majority of all voting members participate, the proposed plan of merger or consolidation must be approved by the greater number as provided in the articles of incorporation.

(2) If the board of directors adopts additional conditions for the approval of the plan of merger or consolidation as provided in subsection 1, the additional conditions must be satisfied in order for the plan of merger or consolidation to be approved.

3. Voting by members may be by mail ballot notwithstanding any contrary provision in the articles of incorporation or bylaws.

Approved May 7, 2008

CHAPTER 1142

SCHOOL BUDGET ADJUSTMENTS

S.F. 2413

AN ACT relating to school budgets, including by providing for requests and applications submitted by school districts to the school budget review committee and documents submitted to other state agencies concerning school district finances, and providing an effective date.

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

Section 1. Section 257.13, subsection 2, Code 2007, is amended to read as follows:

2. The board of directors of a school district that wishes to receive an on-time funding bud-