

Sec. 65. REPEALS.

1. Chapter 135A, Code 1989, is repealed.
2. Sections 147.116, 170.12, 170.19, 170.25, 170.26, 170.27, 170.28, 191A.9, and 253.12, Code 1989, are repealed.

Sec. 66. CODIFICATION TRANSFERS.

1. The Code editor shall transfer sections 135.90 through 135.96 to a new chapter.
2. The Code editor shall transfer chapters 170, 170A, 170B, and 191A to Title VII of the Code, unless the Code editor determines that a different Code arrangement would be preferable.

Approved April 27, 1990

CHAPTER 1205**CORPORATION LAW AND NOTARIAL ACTS**

H.F. 2488

AN ACT relating to civil law, including notarial acts and corporate law and procedures, including the characterization of certain corporate shares as issued, but not outstanding, shares, and making conforming amendments to reflect adoption of chapter 490, the new Iowa model business corporation Act, and including an effective date.

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

Section 1. Section 15.262, subsections 2 and 6, Code 1989, are amended to read as follows:

2. "Corporation" or "development corporation" means a private sector small business economic development corporation organized under chapter 504A or organized for pecuniary profit under chapter 496A 490 and includes development corporations organized under chapter 496B.

6. "Investor" means a private entity which invests money in a corporation organized for pecuniary profit under chapter 496A 490.

Sec. 2. Section 28.107, unnumbered paragraph 1, Code 1989, is amended to read as follows:

There may be incorporated under chapter 496A 490 a corporation which shall be known as the Iowa export trading company. If incorporated, this corporation shall be established by the director of the Iowa department of economic development. The initial board of directors shall consist of the director and six additional members appointed by the director. The six members appointed by the director shall be knowledgeable in the area of farming, exporting, or marketing finance. The department may expend an amount not to exceed one hundred thousand dollars necessary to establish and operate the export trading company until the completion of the public offering of stock. The funds used shall be repaid to the department upon completion of its public offering of stock. Financing for the export trading company shall initially come from its public offering of stock to residents of this state. In preparation for this sale, a detailed marketing study shall be conducted which will serve as the basis for the company work plan and the company prospectus. After the sale of stock, provision shall be made for the election of a board of directors by the stockholders to replace the initial board of directors. However, the director of the department shall be an ex officio member of the board representing the state of Iowa. The director of the department shall also serve as an agent for the company.

Sec. 3. Section 28.108, subsection 2, Code 1989, is amended to read as follows:

2. The Iowa export trading company has the powers necessary to fulfill the purposes of this division and those provided in chapter 496A 490 and the Export Trading Company Act of 1982, Pub. L. No. 97-290 which are not inconsistent with or limited by this division.

Sec. 4. NEW SECTION. 77A.10A NOTARIAL ACTS IN OTHER JURISDICTIONS OF THE UNITED STATES.

1. A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state, if the notarial act is performed in another state, commonwealth, territory, district, or possession of the United States by any of the following persons:

- a. A notary public of that jurisdiction.
- b. A judge, clerk, or deputy clerk of a court of that jurisdiction.
- c. Any other person authorized by the law of that jurisdiction to perform notarial acts.

2. Notarial acts performed in other jurisdictions of the United States under federal authority as provided in section 77A.10B have the same effect as if performed by a notarial officer of this state.

3. The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

4. The signature and indicated title of an officer listed in subsection 1, paragraph "a" or "b" conclusively establish the authority of a holder of that title to perform a notarial act.

Sec. 5. NEW SECTION. 77A.10B NOTARIAL ACTS UNDER FEDERAL AUTHORITY.

1. A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state, if the notarial act is performed anywhere by any of the following persons under authority granted by the law of the United States:

- a. A judge, clerk, or deputy clerk of a court.
- b. A commissioned officer on active duty in the military service of the United States.
- c. An officer of the foreign service or consular officer of the United States.
- d. Any other person authorized by federal law to perform notarial acts.

2. The signature and title of a person performing a notarial act are prima facie evidence that the signature is genuine and that the person holds the designated title.

3. The signature and indicated title of an officer listed in subsection 1, paragraph "a", "b", or "c", conclusively establish the authority of a holder of that title to perform a notarial act.

4. A certificate of a notarial act on an instrument to be recorded must also comply with the requirements of section 331.602, subsection 1.

Sec. 6. NEW SECTION. 77A.10C FOREIGN NOTARIAL ACTS.

1. A notarial act has the same effect under the law of this state as if performed by a notarial officer of this state, if the notarial act is performed within the jurisdiction of and under authority of a foreign nation or its constituent units or a multinational or international organization by any of the following persons:

- a. A notary public or notary.
- b. A judge, clerk, or deputy clerk of a court of record.
- c. Any other person authorized by the law of that jurisdiction to perform notarial acts.

2. An "apostille" in the form prescribed by the Hague convention of October 5, 1961, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

3. A certificate by a foreign service or consular officer of the United States stationed in the nation under the jurisdiction of which the notarial act was performed, or a certificate by a foreign service or consular officer of that nation stationed in the United States, conclusively establishes any matter relating to the authenticity or validity of the notarial act set forth in the certificate.

4. An official stamp or seal of the person performing the notarial act is prima facie evidence that the signature is genuine and that the person holds the indicated title.

5. An official stamp or seal of an officer listed in subsection 1, paragraph "a" or "b", is prima facie evidence that a person with the indicated title has authority to perform notarial acts.

6. If the title of office and indication of authority to perform notarial acts appears either in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

Sec. 7. NEW SECTION. 77A.10D CERTIFICATE OF NOTARIAL ACTS.

1. A notarial act must be evidenced by a certificate signed and dated by a notarial officer. The certificate must include identification of the jurisdiction in which the notarial act is performed and the title of the office of the notarial officer and may include the official stamp or seal of the office. If the officer is a notary public, the certificate may, but need not indicate the date of expiration, if any, of the commission of office. If the notarial officer is a commissioned officer on active duty in the military service of the United States, it must also include the officer's rank.

2. A certificate of a notarial act is sufficient if it meets the requirements of subsection 1, and is in any of the following forms:

a. The short form set forth in section 77A.10E.

b. A form otherwise prescribed by the law of this state, including those forms set out in chapter 558.

c. A form prescribed by the laws or regulations applicable in the place in which the notarial act was performed.

d. A form which sets forth the actions of the notarial officer and those are sufficient to meet the requirements of the designated notarial act.

3. By executing a certificate of a notarial act, the notarial officer certifies that the officer has made the determinations required by section 77A.9.

Sec. 8. NEW SECTION. 77A.10E SHORT FORMS.

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 77A.10D, subsection 1.

1. For an acknowledgment in an individual capacity:

State of _____

(County) of _____

This instrument was acknowledged before me on _____ by _____
(date) (name(s) of person(s))

(Seal, if any)

(signature of notarial officer)

Title (and Rank)
[My commission expires: ____]

2. For an acknowledgment in a representative capacity:

State of _____

(County) of _____

This instrument was acknowledged before me on (date) by (name(s) of person(s)) as (type of authority, e.g., officer, trustee, etc.) of (name of party on behalf of whom instrument was executed).

(Seal, if any)

(signature of notarial officer)

Title (and Rank)
[My commission expires: ____]

3. For a verification upon oath or affirmation:

State of _____

(County) of _____

Signed and sworn to (or affirmed) before me on _____ by _____
(date) (name(s) of person(s) making statement)

(signature of notarial officer)

(Seal, if any)

Title (and Rank)
[My commission expires: ____]

4. For witnessing or attesting a signature:
State of _____
(County) of _____
Signed or attested before me on _____ by _____

(date) (name(s) of person(s))

(signature of notarial officer)

(Seal, if any)

Title (and Rank)
[My commission expires: ____]

5. For attestation of a copy of a document:
State of _____
(County) of _____
I certify that this is a true and correct copy of a document in the possession of _____.
Dated _____

(signature of notarial officer)

(Seal, if any)

Title (and Rank)
[My commission expires: ____].

Sec. 9. Section 86.36, subsection 5, Code 1989, is amended to read as follows:

5. The term ~~nonresident employer~~ "Nonresident employer", as used in section 85.3 and this section shall not be construed to does not mean foreign corporations lawfully qualified to transact business within the state of Iowa under chapter 494 or chapter ~~496A~~ 490.

Sec. 10. Section 312.8, unnumbered paragraph 1, Code 1989, is amended to read as follows:

Where a tract of land is owned by a corporation organized under the provisions of chapter ~~491~~ 490 with assets of the value of one million dollars or more, and having one or more platted villages located within the territorial limits of said tract of land, all of the territory within the plats of said villages with their addition or subdivisions shall, for the purposes of this chapter, be deemed to be one incorporated city. All funds to become due to said villages so consolidated shall be paid to the county auditor of the county in which said tract of land and said villages are situated. Said fund shall, thereupon, be administered and expended by the county board of supervisors of said county for the construction, reconstruction, repair, and maintenance of roads and streets within the plats of such villages in the same manner and with the same powers and duties as city councils in cities. In the event the population of such villages shall not have been separately enumerated in the federal census, then said county board of supervisors shall cause a census of said villages to be taken as soon as may be after this chapter becomes effective, which census shall be used in lieu of the federal census provided for in section 312.3, subsection 2.

Sec. 11. Section 331.602, subsection 27, Code 1989, is amended to read as follows:

27. Carry out duties relating to the recordation of articles of incorporation and other instruments for business corporations as provided in section ~~496A.53~~ 490.130.

Sec. 12. Section 455B.397, Code 1989, is amended to read as follows:
455B.397 FINANCIAL DISCLOSURE.

Immediately upon the incurrence of any liability to the state under this part, the debtor shall submit to the director a report consisting of documentation of the debtor's liabilities and assets, including if filed, a copy of the annual report submitted to the secretary of state pursuant to chapter ~~496~~ 490. A subsequent report pursuant to this section shall be submitted annually on April 15 for the life of the debt. These reports shall be kept confidential and shall not be available to the public.

Sec. 13. Section 455B.430, subsection 5, Code 1989, is amended to read as follows:

5. Immediately upon the listing of real property in the registry of abandoned or uncontrolled disposal sites, a person liable for cleanup costs shall submit to the director a report consisting of documentation of the responsible person's liabilities and assets, including if filed, a copy of the annual report submitted to the secretary of state pursuant to chapter ~~496~~ 490. A subsequent report pursuant to this section shall be submitted annually on April 15 for the period the site remains on the registry.

Sec. 14. Section 468.327, Code Supplement 1989, is amended to read as follows:
468.327 TRUSTEE CONTROL.

A district formed pursuant to this part, under the control of a city council, may be placed under the control and management of a board of trustees as provided in subchapter III of this chapter. Each trustee shall be a citizen of the United States not less than eighteen years of age and a bona fide owner of benefited land in the district for which the trustee is elected. If the owner is a family farm corporation as defined by section 172C.1, subsection 8, a business corporation organized and existing under chapter 490, 491, or 494, or ~~496A~~, or a partnership, a stockholder or officer authorized by the corporation or a general partner may be elected as a trustee of the district.

Sec. 15. Section 468.506, subsection 4, Code Supplement 1989, is amended to read as follows:

4. In a district which is a levee and drainage district which has eighty-five percent of its acreage within the corporate limits of a city and has been under the control of a city under subchapter II, part 3, a bona fide owner of benefited land in the district. If the owner is a family farm corporation as defined by section 172C.1, subsection 8, a business corporation organized and existing under chapter 490, 491, or 494, or ~~496A~~, or a partnership, a stockholder or officer authorized by the corporation or a general partner may be elected as a trustee of the district.

Sec. 16. Section 490.120, Code Supplement 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 10. The secretary of state may adopt rules for the electronic filing of documents and the certification of electronically filed documents.

Sec. 17. Section 490.122, subsection 3, paragraph a, Code Supplement 1989, is amended to read as follows:

a. \$ ~~.50~~ 1.00 a page for copying.

Sec. 18. Section 490.127, Code Supplement 1989, is amended to read as follows:
490.127 EVIDENTIARY EFFECT OF COPY OF FILED DOCUMENT.

A certificate attached to a copy of a document filed by the secretary of state, bearing the secretary of state's signature, which may be in facsimile, and the seal of ~~this~~ the secretary of state, is conclusive evidence that the original document is on file with the secretary of state.

Sec. 19. Section 490.128, subsection 2, paragraph e, Code Supplement 1989, is amended to read as follows:

e. ~~That~~ If it is a domestic corporation, that articles of dissolution have not been filed.

Sec. 20. Section 490.401, subsection 2, paragraph b, Code Supplement 1989, is amended to read as follows:

b. A corporate name reserved or registered under section 490.402, ~~or~~ 490.403, or 504A.7.

Sec. 21. Section 490.401, subsection 2, paragraph c, Code Supplement 1989, is amended to read as follows:

c. The fictitious name adopted by a foreign corporation or a not-for-profit foreign corporation authorized to transact business in this state because its real name is unavailable.

Sec. 22. Section 490.401, subsection 5, Code Supplement 1989, is amended to read as follows:

5. This chapter does not control the use of fictitious names; however, if a corporation or a foreign corporation uses a fictitious name in this state it shall deliver to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

Sec. 23. Section 490.631, subsection 1, Code Supplement 1989, is amended to read as follows:

1. A corporation may acquire its own shares and, except as may be otherwise provided pursuant to section 490.632, shares so acquired constitute authorized but unissued shares.

Sec. 24. NEW SECTION. 490.632 REACQUIRED SHARES AS ISSUED BUT NOT OUTSTANDING SHARES.

1. A corporation which, as of December 30, 1989, treated any of its shares which it had reacquired as issued but not outstanding shares may continue to treat those shares as issued but not outstanding shares.

2. When a corporation reacquires its own shares after December 30, 1989, but prior to January 1, 1991, those shares shall constitute issued but not outstanding shares as of and after their reacquisition if either of the following is applicable:

a. If the shares are reacquired, the articles of incorporation contain a provision specifying that reacquired shares constitute issued but not outstanding shares.

b. Prior to January 1, 1991, the board of directors adopts a resolution specifying that shares reacquired after December 30, 1989, and prior to January 1, 1991, constitute issued but not outstanding shares.

3. If a corporation reacquires its own shares after December 31, 1990, those shares constitute issued but not outstanding shares if, at the time they are reacquired by the corporation, either of the following is applicable:

a. The articles of incorporation contain a provision specifying that reacquired shares constitute issued but not outstanding shares.

b. The board of directors has adopted a resolution specifying that reacquired shares constitute issued but not outstanding shares.

4. Unless otherwise provided in its articles of incorporation, a corporation may at any time, by resolution adopted by its board of directors, cancel or otherwise restore to the status of authorized but unissued shares any of its shares which it has previously reacquired and treated as issued but not outstanding shares.

Sec. 25. Section 490.728, subsection 1, Code Supplement 1989, is amended to read as follows:

1. Unless otherwise provided in the articles of incorporation, directors are elected by a plural-ity majority of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present.

Sec. 26. Section 490.832, Code Supplement 1989, is amended to read as follows:

490.832 INDEMNIFICATION OF PERSONAL LIABILITY — DIRECTORS.

The articles of incorporation may contain a provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach

of fiduciary duty as a director, provided that the provision does not eliminate or limit the liability of a director for a breach of the director's duty of loyalty to the corporation or its shareholders, for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, for a transaction from which the director derives an improper personal benefit, or under section 490.833. A provision shall not eliminate or limit the liability of a director for an act or omission occurring prior to the date when the provision in the articles of incorporation becomes effective.

Sec. 27. Section 490.1530, subsection 1, Code Supplement 1989, is amended to read as follows:

1. The foreign corporation does not deliver its annual report to the secretary of state in a form that meets the requirements of section 490.1622 within sixty days after it is due.

Sec. 28. **NEW SECTION. 490.1705 REINSTATEMENT OF CORPORATIONS EXISTING PRIOR TO DECEMBER 31, 1989.**

1. A corporation subject to this chapter, whose certificate of incorporation was canceled pursuant to former section 496A.130 after December 30, 1981, and before December 31, 1989, may apply to the secretary of state for reinstatement pursuant to section 490.1422 on or before December 31, 1991.

2. A corporation whose certificate of incorporation was canceled pursuant to former section 496A.130 after December 30, 1979, and before December 31, 1981, may apply to the secretary of state for reinstatement pursuant to section 490.1422 at any time within ten years of the date of the issuance of the certificate of cancellation.

3. A corporation whose corporate rights have been canceled and forfeited in the manner provided in section 496.9 prior to December 31, 1989, or which has a right to renew pursuant to sections 491.25 through 491.28, may apply to the secretary of state for reinstatement pursuant to section 490.1422 on or before December 31, 1991.

4. This section applies to all reinstatements delivered to the office of the secretary of state for filing on or after December 31, 1989.

Sec. 29. Section 491.3, subsection 8, Code 1989, is amended to read as follows:

8. A corporation organized under or subject to this chapter may make indemnification as provided in ~~section 496A.4A~~ sections 490.850 through 490.858.

Sec. 30. Section 491.16, Code 1989, is amended to read as follows:

491.16 INDEMNIFICATION OF OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS – INSURANCE.

~~The provisions of section 496A.4A shall~~ Sections 490.850 through 490.858 apply to corporations organized under or subject to this chapter.

Sec. 31. Section 496C.2, unnumbered paragraph 1, Code 1989, is amended to read as follows:

As For words used in this chapter, unless the context otherwise requires, the definitions contained in the Iowa business corporation Act [~~chapter 496A~~], chapter 490, apply, and:

Sec. 32. Section 496C.5, Code 1989, is amended to read as follows:

496C.5 CORPORATE NAME.

The corporate name of a professional corporation, the corporate name of a foreign professional corporation or its name as modified for use in this state, and any assumed fictitious name or trade name adopted by a professional corporation or foreign professional corporation shall contain the words "professional corporation" or the abbreviation "P.C.", and except for the addition of such words or abbreviation, shall be a name which could lawfully be used by a licensed individual or by a partnership of licensed individuals in the practice in this state of a profession which the corporation is authorized to practice. Each regulating board may by rule or regulation adopt additional requirements as to the corporate names and assumed fictitious or trade names of professional corporations and foreign professional corporations which are authorized to practice a profession which is within the jurisdiction of the regulating board.

Sec. 33. Section 504A.4, subsection 14, Code 1989, is amended to read as follows:

14. A corporation operating under this chapter may indemnify any present or former director, officer, employee, member, or volunteer in the manner and in the instances authorized in ~~section 496A.4A~~ sections 490.850 through 490.858.

Sec. 34. Section 504A.6, subsection 5, Code Supplement 1989, is amended to read as follows:

5. This chapter does not control the use of fictitious names; however, if a corporation or a foreign corporation uses a fictitious name in this state it shall deliver to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

Sec. 35. Section 508B.2, unnumbered paragraph 2, Code 1989, is amended to read as follows:

A plan of conversion may provide that a mutual company may convert into a domestic stock company, convert and merge, or convert and consolidate with a domestic stock company, as provided in chapter 490 or 491 or 496A, whichever is applicable. However, the mutual company is not required to comply with sections 491.102 through 491.105 or sections ~~496A.68 through 496A.70~~ 490.1101 and 490.1103 relating to approval of merger or consolidation plans by boards of directors and shareholders, if at the time of approval of the plan of conversion the board of directors approves the merger or consolidation and if at the time of approval of the plan by policyholders as provided in section 508B.6, the policyholders approve the merger or consolidation. This chapter supersedes any conflicting provisions of chapters 521 and 521A. A mutual company may convert, merge, or consolidate as part of a plan of conversion in which a majority or all of the common shares of the stock company are acquired by another corporation, which may be a corporation organized for that purpose, or in which the new stock company consolidates with a stock company to form another stock company.

Sec. 36. Section 514.23, subsection 1, unnumbered paragraph 1, Code 1989, is amended to read as follows:

A corporation organized and governed by this chapter may become a mutual insurer under a plan which is approved by the commissioner of insurance. The plan shall state whether the insurer will be organized as a for-profit corporation pursuant to chapter 490 or 491 or 496A or a nonprofit corporation pursuant to chapter 504A. Upon consummation of the plan, the corporation shall ~~thereafter~~ fully comply with the requirements of the law that apply to a mutual insurance company. If the insurer is to be organized under chapter 504A, then at least seventy-five percent of the initial board of directors of the mutual insurer so formed shall be policyholders who are also nonproviders of health care. All directors comprising this initial board of directors shall be selected by an independent committee appointed by the state commissioner of insurance. This independent committee shall consist of seven to eleven persons who are current policyholders, who are nonproviders of health care, and who are not directors of ~~any~~ a corporation subject to this chapter. For purposes of this subsection, a "nonprovider of health care" is an individual who is not any of the following:

Sec. 37. Section 524.303, subsection 2, Code 1989, is amended to read as follows:

2. Applicable fees, payable to the secretary of state as specified in ~~section 496A.124~~ 490.122, for the filing and recording of the articles of incorporation.

Sec. 38. Section 524.306, Code 1989, is amended to read as follows:

524.306 ISSUANCE OF CERTIFICATE OF INCORPORATION.

The receipt of the approved articles of incorporation of a state bank by the secretary of state ~~shall constitute~~ constitutes filing ~~thereof~~ with that office. The secretary of state shall record the articles of incorporation and forward a copy ~~thereof of them~~ to the county recorder of the county in which the state bank is to have its principal place of business ~~who~~. The county recorder shall record same the articles, all as required provided by section 496A.53 section 490.130. The secretary of state upon the filing of ~~such~~ the articles of incorporation shall issue a certificate of incorporation and send the ~~same~~ certificate to the incorporators.

Sec. 39. Section 524.801, subsection 8, Code 1989, is amended to read as follows:

8. To indemnify ~~any~~ a director, officer, or employee, or a former director, officer, or employee of the state bank in the manner and in the instances authorized by ~~section 496A.4A~~ sections 490.850 through 490.858.

Sec. 40. Section 524.1301, subsection 1, Code 1989, is amended to read as follows:

1. Subsequent to the issuance of the certificate of incorporation and prior to the issuance of the authorization to do business, a state bank which has not issued any shares may be voluntarily dissolved by its incorporators. In such case the articles of dissolution shall be prepared and filed in the manner provided in ~~section 496A.79~~ 490.1401. The articles of dissolution shall be delivered to the superintendent, together with the applicable filing and recording fees, who shall deliver the same to the secretary of state for filing and recording in the office of the county recorder.

Sec. 41. Section 524.1305, subsections 5 and 6, Code 1989, are amended to read as follows:

5. Safe-deposit boxes, the contents of which have not been removed by the owners after the date specified in the notice given under paragraph "b" of subsection 2 of this section, shall be opened under the supervision of the superintendent and the contents placed in sealed packages which, together with unclaimed property held by the state bank in safekeeping, shall be transmitted to the treasurer of state. Amounts due to depositors who are unknown, or who are under a disability and there is no person legally competent to receive ~~such~~ the amount, or who cannot be found after the exercise of reasonable diligence, shall be transmitted to the treasurer of state, together with a statement giving the name of the person, if known, entitled to ~~such~~ the amount, the person's last known address, the amount due ~~such~~ the person, and ~~such~~ other information about ~~such~~ the person as the treasurer of state may reasonably require. All property transmitted to the treasurer of state pursuant to this subsection shall be treated as abandoned, retained by the treasurer of state, and subject to claim, in the manner provided for in sections 556.14 to 556.21. All amounts due creditors described in ~~section 496A.101~~ 490.1440 shall be deposited with the treasurer of state in accordance with ~~the provisions~~ of that section. Such amounts shall be retained by the treasurer of state and are subject to claim in the manner provided for in ~~said section 496A.101~~ 490.1440.

6. Upon approval by the superintendent, assets remaining after the performance of all obligations of the state bank under subsections 3, 4, and 5 of this section shall be distributed to its shareholders according to their respective rights and preferences. Partial distributions to shareholders may be made prior to such time only if, and to the extent, approved by the superintendent. All amounts due shareholders described in ~~section 496A.101~~ 490.1440 shall be deposited with the treasurer of state in accordance with ~~the provisions~~ of that section. Such amounts shall be retained by the treasurer of state and are subject to claim in the manner provided for in ~~said section 496A.101~~ 490.1440.

Sec. 42. Section 524.1306, subsection 1, Code 1989, is amended to read as follows:

1. A state bank may, at any time prior to the issuance of the approved copy of the statement of intent to dissolve by the secretary of state, revoke voluntary dissolution proceedings ~~by consent of the shareholders in the manner as provided for in section 496A.85 or by act of the state bank as provided for in section 496A.86, except that the vote taken on the resolution referred to in subsection 3 of section 496A.86 shall be adopted only upon the affirmative vote of the holders of at least three-fourths of the shares entitled to vote thereon~~ 490.1404.

Sec. 43. Section 524.1309, Code 1989, is amended to read as follows:

524.1309 BECOMING SUBJECT TO CHAPTER ~~496A~~ 490.

In lieu of the dissolution procedure prescribed in sections 524.1303 to 524.1308, a state bank may cease to carry on the business of banking and, after compliance with ~~the provisions~~ of this section, continue as a corporation subject to ~~the provisions~~ of chapter ~~496A~~ 490.

1. A state bank which has commenced business may propose to voluntarily cease to carry on the business of banking and become a corporation subject to ~~the provisions~~ of chapter ~~496A~~

490 upon the affirmative vote of the holders of at least three-fourths of the shares entitled to vote thereon, adopting a plan involving both a provision for acquisition of its assets and assumption of its liabilities by another state bank or national bank and a provision for continuance of its business if acquisition of its assets and assumption of its liabilities is not effected, or any other plan providing for the cessation of banking business and the payment of its liabilities.

2. The application to the superintendent for approval of a plan described in subsection 1 of this section shall be treated by the superintendent in the same manner as an application for approval of a plan of dissolution under subsection 2 of section 524.1303, and shall be subject to the provisions of subsection 3 of section 524.1303.

3. Immediately upon adoption and approval of a plan to voluntarily cease to carry on the business of banking and become a corporation subject to the provisions of chapter ~~496A~~ 490, the state bank shall deliver to the superintendent a statement of its intent to cease to carry on the business of banking and become a corporation subject to the provisions of said chapter 490, which shall be signed by two of its duly authorized officers and shall contain the name of the state bank, the post-office address of its principal place of business, the name and address of its officers and directors, the number of shares entitled to vote on the plan and the number of shares voted for or against the plan, respectively, the nature of the business to be conducted by the corporation under the provisions of said chapter 490, and the general nature of the assets to be held by such the corporation.

4. If the statement of intent to cease to carry on the business of banking and become a corporation subject to the provisions of chapter ~~496A~~ 490 satisfies the requirements of this section, the superintendent shall deliver the statement with written approval to the secretary of state who shall issue to the state bank an approved copy of such the statement. Upon the issuance of an approved copy of the statement of intent, the state bank shall immediately surrender to the superintendent its authorization to do business as a bank and shall cease to accept deposits or carry on the banking business except insofar as may be necessary for it to complete the settlement of its affairs as a state bank in accordance with subsection 5.

5. The board of directors shall have full power to complete the settlement of the affairs of the state bank. Within thirty days after the issuance of an approved copy of the statement of intent to cease to carry on the business of banking and become a corporation subject to the provisions of chapter ~~496A~~ 490, the state bank shall give notice of its intent to persons described in subsection 2 of section 524.1305 and in the manner provided for in that subsection. In completing the settlement of its affairs as a state bank the state bank shall also follow the procedure prescribed in subsections 3, 4 and 5 of section 524.1305.

6. Upon approval by the superintendent, assets remaining after the performance of all obligations described in this section, except those which the state bank wishes to retain when it becomes a corporation subject to the provisions of chapter ~~496A~~ 490, shall be distributed to its shareholders according to their respective rights and preferences.

7. Upon completion of all the requirements of this section, the state bank shall deliver to the superintendent articles of intent to be subject to chapter ~~496A~~ 490, together with the applicable filing and recording fees, which shall set forth that the state bank has complied with the provisions of this section, that it has ceased to carry on the business of banking, and the information required by section ~~496A.49~~ 490.202 relative to the contents of articles of incorporation under chapter ~~496A~~ 490. If the superintendent finds that the state bank has complied with the provisions of this section and that the articles of intent to be subject to said chapter 490 satisfy the requirements of this section, the superintendent shall deliver them to the secretary of state for filing and recording in the secretary of state's office, and the same they shall be filed and recorded in the office of the county recorder.

8. Upon the filing of the articles of intent to be subject to chapter ~~496A~~ 490, the state bank shall cease to be a state bank subject to the provisions of this chapter, and shall cease to have the powers of a state bank subject to this chapter and shall become a corporation subject to the provisions of chapter ~~496A~~ 490. The secretary of state shall issue a certificate as to the

filing of the articles of intent to be subject to the provisions of chapter 496A 490, and send the same certificate to the corporation or its representative. The articles of intent to be subject to chapter 496A 490 shall be the articles of incorporation of the corporation. The provisions of chapter 496A 490 becoming applicable to a corporation formerly doing business as a state bank shall not affect any right accrued or established, or liability or penalty incurred under the provisions of this chapter prior to the filing with the secretary of state of the articles of intent to be subject to chapter 496A 490.

9. A shareholder of a state bank who objects, in the manner prescribed by section 496A.78, to adoption by the state bank of a plan to cease to carry on the business of banking and to continue as a corporation subject to the provisions of chapter 496A 490, shall be is entitled to the rights and remedies of a dissenting shareholder provided for in that section chapter 490, division XIII.

10. A state bank may, at any time prior to the issuance of the approved copy of the statement of intent to cease to carry on the business of banking and become a corporation subject to the provisions of chapter 496A 490, revoke such the proceedings in the manner prescribed by section 524.1306.

Sec. 44. Section 524.1310, Code 1989, is amended to read as follows:

524.1310 INVOLUNTARY DISSOLUTION AFTER COMMENCEMENT OF BUSINESS — SUPERINTENDENT AS RECEIVER.

In a situation in which the superintendent has required, in accordance with the provisions of section 524.226, that the state bank cease to carry on its business, the superintendent shall apply to the district court for the county in which the state bank is located for appointment as receiver for the state bank. The district court shall appoint the superintendent as receiver unless the superintendent has tendered such the appointment to the federal deposit insurance corporation as provided for in section 524.1313, in which case the district court shall appoint the federal deposit insurance corporation as receiver. The affairs of the state bank shall thereafter be under the direction of the district court, and the assets thereof of the state bank shall be distributed in accordance with the provisions of section 524.1312. All amounts due creditors and shareholders described in section 496A.101 490.1440 shall be deposited with the treasurer of state in accordance with the provisions of that section. Such amounts shall be retained by the treasurer of state and subject to claim in the manner provided for in section 496A.101 490.1440. Amounts due to depositors who are unknown, or who are under a disability and there is no person legally competent to receive such the amount, or who cannot be found after the exercise of reasonable diligence, shall be transmitted to the treasurer of state in the manner required by section 524.1305, subsection 5. Such property shall be treated as abandoned, retained by the treasurer of state, and is subject to claim, in the manner provided for in sections 556.14 to 556.21. The attorney general, or such assistants as shall be appointed by the court, shall represent the superintendent in all proceedings connected with such the receivership.

Sec. 45. Section 524.1402, subsection 2, Code 1989, is amended to read as follows:

2. In the case of a state bank which is a party to the plan, if the proposed merger or consolidation will result in a state bank subject to this chapter, adoption of the plan by such state bank shall require the affirmative vote of at least a majority of the directors and approval by the shareholders, in the manner and according to the procedures prescribed in section 496A.70 490.1103, at a meeting called in accordance with the terms of that section. In the case of a national bank, or if the proposed merger or consolidation will result in a national bank, adoption of the plan by each party thereto shall require the affirmative vote of at least such directors and shareholders whose affirmative vote thereon is required under the laws of the United States. Subject to applicable requirements of the laws of the United States in a case in which a national bank is a party to a plan, any modification of a plan which has been adopted shall be made by any method provided therein, or in the absence of such provision, by the same vote as required for adoption.

Sec. 46. Section 524.1402, subsection 3, paragraph b, Code 1989, is amended to read as follows:

b. Applicable fees payable to the secretary of state, as specified in section ~~496A.124~~ 490.122, for the filing and recording of the articles of merger or consolidation.

Sec. 47. Section 524.1406, subsection 1, Code 1989, is amended to read as follows:

1. A shareholder of a state bank, which is a party to a proposed merger or consolidation plan which will result in a state bank subject to this chapter, who objects to the plan ~~in the manner prescribed by section 496A.78, shall be~~ is entitled to the rights and remedies of a dissenting shareholder as provided in ~~that section~~ chapter 490, division XIII. Shares acquired by a state bank pursuant to payment of ~~the their~~ their agreed value ~~therefor~~ or to payment of the judgment entered ~~therefor~~, pursuant to ~~section 496A.78~~ chapter 490, division XIII, shall be sold at public or private sale, within one year from the time of their purchase or acquisition, unless the time is extended by the superintendent.

Sec. 48. Section 524.1408, Code 1989, is amended to read as follows:

524.1408 MERGER OF CORPORATION SUBSTANTIALLY OWNED BY A STATE BANK.

~~Any~~ A state bank owning at least ninety-five percent of the outstanding shares, of each class, of another corporation which it is authorized to own ~~under the provisions of this chapter~~, may merge ~~such~~ the other corporation into itself without approval by a vote of the shareholders of either the state bank or the subsidiary corporation. The board of directors of the state bank shall approve a plan of merger, mail to shareholders of record of the subsidiary corporation, and prepare and execute articles of merger in the manner provided for in section ~~496A.72~~ 490.1104. The articles of merger, together with the applicable filing and recording fees, shall be delivered to the superintendent who shall, if the superintendent approves of the proposed merger and if the superintendent finds the articles of merger satisfy the requirements of this section, deliver them to the secretary of state for filing and recording in the secretary of state's office, and ~~the same~~ they shall be filed in the office of the county recorder. The secretary of state upon filing the articles of merger shall issue a certificate of merger and send the ~~same~~ certificate to the state bank and a copy ~~thereof~~ of it to the superintendent.

Sec. 49. Section 524.1410, subsection 3, Code 1989, is amended to read as follows:

3. The applicable fee payable to the secretary of state, ~~by reason of subsection 17 of~~ under section ~~496A.124~~ 490.122, for the filing and recording of the articles of conversion.

Sec. 50. Section 524.1902, Code 1989, is amended to read as follows:

524.1902 APPLICABILITY OF OTHER CHAPTERS.

~~The provisions of chapters Chapters 490, 491, 492, and 493, and 496A shall do not apply to banks except insofar as is provided by this chapter.~~

Sec. 51. Section 533.4, subsection 27, Code 1989, is amended to read as follows:

27. To provide indemnity for the director, officer, or employee in the same fashion that a corporation organized under chapter ~~496A 490~~ could under ~~section 496A.4A, provided that sections 490.850 through 490.858; however, where section 496A.4A provides those sections provide~~ for action by shareholders the section provision is applicable to action by members of the credit union and where the section has sections have reference to the corporation organized under chapter 496A 490, it the provision is applicable to the association organized under this chapter.

Sec. 52. Section 533.22, subsection 2, Code 1989, is amended to read as follows:

2. All amounts due to members who are unknown, or who are under a disability and there is no person legally competent to receive ~~such~~ the amounts, or who cannot be found after the exercise of reasonable diligence, shall be transmitted to the treasurer of state who shall hold ~~such~~ the amounts in the manner prescribed by chapter 556. All amounts due to creditors as described in section ~~496A.101~~ 490.1440 shall be transmitted to the treasurer of state in accordance with ~~the provisions of that section~~ and shall be retained by the treasurer of state and subject to claim as provided for in that section.

Sec. 53. Section 534.102, subsection 26, Code 1989, is amended to read as follows:

26. "Service corporation" means a corporation which is organized under chapter ~~496A~~ 490 and which is owned in any part by one or more state associations or federal associations or a combination of these.

Sec. 54. Section 534.501, subsection 1, paragraph g, and subsection 4, Code 1989, is amended to read as follows:

g. If a stock association, the information specified in section ~~496A.49~~, subsections 4, 5, 6, and 7 490.202 and sections 490.601 through 490.602.

4. AMENDMENT PROCEDURE. The procedure for amending articles of incorporation or adopting restated articles for mutual associations is that specified in section 504A.35, and for stock associations it is that specified in section 490.726 and sections ~~496A.56 and 496A.57~~ 490.1002 through 490.1005.

Sec. 55. Section 534.504, Code 1989, is amended to read as follows:

534.504 MEETINGS OF STOCKHOLDERS.

Sections ~~496A.27, 496A.28, 496A.29, 496A.30, 496A.31, 496A.32, and 496A.33~~ 490.701 through 490.731 apply to stock associations.

Sec. 56. Section 534.508, subsection 1, Code 1989, is amended to read as follows:

1. IN GENERAL. Sections ~~496A.14, 496A.15, 496A.16, 496A.17, 496A.18, 496A.19, 496A.21, 496A.22, 496A.23, 496A.24, and 496A.25~~ 490.601 through 490.604, 490.620 through 490.628, 490.630, and 490.1704 apply to stock associations.

Sec. 57. Section 534.605, subsection 4, Code 1989, is amended to read as follows:

4. ~~Any~~ An association operating under this chapter ~~shall have the power to~~ may indemnify any present or former director, officer, or employee in the manner and in the instances authorized in section ~~496A.4A~~ sections 490.850 through 490.858. If the association is a mutual association, the references in section ~~496A.4A~~ those sections to stockholder shall be deemed to be references to members.

Sec. 58. Section 534.607, Code 1989, is amended to read as follows:

534.607 INDEMNIFICATION.

Except as otherwise provided in section 534.602, ~~section 496A.4A~~ applies sections 490.850 through 490.858 apply to associations incorporated under this chapter.

Sec. 59. Section 556.6, Code 1989, is amended to read as follows:

556.6 PROPERTY OF BUSINESS ASSOCIATIONS AND BANKING OR FINANCIAL ORGANIZATIONS HELD IN COURSE OF DISSOLUTION.

Except as provided in section ~~496A.101~~ 490.1440, all intangible personal property distributable in the course of a voluntary dissolution of a business association, banking organization, or financial organization organized under the laws of or created in this state, that is unclaimed by the owner within one year after the date for final distribution, is presumed abandoned.

Sec. 60. Section 558.42, Code 1989, is amended to read as follows:

558.42 ACKNOWLEDGMENT AS CONDITION PRECEDENT.

It shall not be deemed lawfully recorded, unless it has been previously acknowledged or proved in the manner prescribed in this chapter or chapter 77A, except that documents filed and recorded pursuant to section 490.130, affidavits, and certified copies of petitions in bankruptcy with or without the schedules appended, of decrees of adjudication in bankruptcy, and of orders approving trustees' bonds in bankruptcy, and Uniform Commercial Code financing statements and financing statement changes need not be thus acknowledged.

Sec. 61. Section 602.8102, subsection 68, Code Supplement 1989, is amended to read as follows:

68. Certify a copy of a decree of dissolution of a business corporation to the secretary of state ~~and the recorder of the county in which the corporation is located~~ as provided in section ~~496A.100~~ 490.1433.

Sec. 62. Chapter 496, Code 1989, is repealed.

Sec. 63.

Sections 4 through 8, and sections 24 and 60 of this Act, being deemed of immediate importance, take effect upon enactment, and apply to notarial acts performed on or after the effective date of this Act.

Approved April 27, 1990

CHAPTER 1206

STORM WATER DRAINAGE SYSTEMS

H.F. 2495

AN ACT relating to the establishment, maintenance, and operation of storm water drainage systems and the payment of rates or charges.

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

Section 1. Section 362.2, subsection 22, Code 1989, is amended to read as follows:

22. "City utility" means all or part of a waterworks, gasworks, sanitary sewage system, storm water drainage system, electric light and power plant and system, or heating plant any of which are owned by a city, including all land, easements, rights of way, fixtures, equipment, accessories, improvements, appurtenances, and other property necessary or useful for the operation of the utility.

Sec. 2. Section 384.84, subsection 1, Code 1989, is amended to read as follows:

1. The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise and, when revenue bonds or pledge orders are issued and outstanding pursuant to this division, shall establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise, and to leave a balance of net revenues sufficient at all times to pay the principal of and interest on the revenue bonds and pledge orders as they become due and to maintain a reasonable reserve for the payment of principal and interest, and a sufficient portion of net revenues must be pledged for that purpose. Rates must be established by ordinance of the council or by resolution of the trustees, published in the same manner as an ordinance. All rates or charges for the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these, if not paid as provided by ordinance of the council, or resolution of the trustees, are a lien upon the premises served by any of these services upon certification to the county treasurer that the rates or charges are due. However, the lien shall not be less than five dollars. The county treasurer may charge two dollars for each lien certified as an administrative expense, which amount shall be added to the amount of the lien to be collected at the time of payment of the assessment from the payor and credited to the county general fund. The lien has equal precedence with ordinary taxes, may be certified to the county treasurer and collected in the same manner as taxes, and is not divested by a judicial sale. A governing body may declare all or a certain portion of a city as a storm water drainage system district for the purpose of establishing, imposing, adjusting, and providing for the collection of rates as provided herein. The ordinance provisions for collection of rates of a storm water