

Senate File 493

H-1663

1 Amend Senate File 493, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. By striking everything after the enacting clause
4 and inserting:

5 <Section 1. Section 499B.15, subsection 2, Code
6 2011, is amended to read as follows:

7 2. a. If the form of administration is a board
8 of administration, board meetings must be open to
9 all apartment owners except for meetings between the
10 board and its attorney with respect to proposed or
11 pending litigation where the contents of the discussion
12 would otherwise be governed by the attorney-client
13 privilege. Notice of each board meeting must be mailed
14 or delivered to each apartment owner and to each member
15 of the board at least seven days before the meeting.
16 Each notice shall contain the date, time, place, and
17 purpose of the meeting. Minutes of meetings of the
18 board of administration must be maintained in written
19 form or in another form that can be converted into
20 written form within a reasonable time. The official
21 records of the board of administration must be open to
22 inspection and available for photocopying at reasonable
23 times and places. Any action taken by a board of
24 administration at a meeting that is in violation of any
25 of the provisions of this subsection is not valid or
26 enforceable.

27 b. An apartment owner may seek judicial enforcement
28 of the requirements of this subsection within six
29 months of the alleged violation. Suits to enforce
30 this subsection shall be brought in the district court
31 for the county in which the declaration under section
32 499B.3 was filed. In any judicial action, the board
33 shall have the burden of proving that the requirements
34 of this subsection have been met. If a board fails to
35 prove by a preponderance of the evidence that the board
36 complied with the requirements of this subsection, the
37 court shall:

38 (1) Award costs and reasonable attorney fees to the
39 prevailing party.

40 (2) Issue an order declaring any action taken by
41 the board at a meeting that violated this subsection
42 invalid and unenforceable.

43 (3) If the court determines that a violation of
44 this subsection is likely or about to occur, enjoin the
45 board from committing the violation.

46 Sec. 2. Section 504.823, Code 2011, is amended to
47 read as follows:

48 **504.823 Call and notice of meetings.**

49 1. Unless the articles or bylaws of a corporation,
50 or subsection 3 or 5, provide provides otherwise,

1 regular meetings of the board may be held without
2 notice.

3 2. Unless the articles, bylaws, or subsection 3 or
4 ~~5 provide~~ provides otherwise, special meetings of the
5 board must be preceded by at least two days' notice to
6 each director of the date, time, and place, but not the
7 purpose, of the meeting.

8 3. In corporations without members, any board
9 action to remove a director or to approve a matter
10 which would require approval by the members if the
11 corporation had members shall not be valid unless each
12 director is given at least seven days' written notice
13 that the matter will be voted upon at a directors'
14 meeting or unless notice is waived pursuant to section
15 504.824.

16 4. Unless the articles or bylaws provide otherwise,
17 the presiding officer of the board, the president, or
18 twenty percent of the directors then in office may call
19 and give notice of a meeting of the board.

20 5. a. Notwithstanding any provision of this
21 chapter to the contrary, homeowners' association
22 board meetings shall be open to all members except
23 for meetings between the board and its attorney with
24 respect to proposed or pending litigation where the
25 contents of the discussion would otherwise be governed
26 by the attorney-client privilege. Notice of each board
27 meeting shall be mailed or delivered to each member
28 and to each director at least seven days before the
29 meeting. Each notice shall contain the date, time,
30 place, and purpose of the meeting. Any action taken
31 by a board at a meeting that is in violation of any
32 of the provisions of this subsection is not valid or
33 enforceable.

34 b. A member may seek judicial enforcement of the
35 requirements of this subsection within six months
36 of the alleged violation. Suits to enforce this
37 subsection shall be brought in the district court
38 for the county in which a majority of the area of
39 real estate governed by the homeowners' association
40 is located. In any judicial action, the homeowners'
41 association board shall have the burden of proving
42 that the requirements of this subsection have been
43 met. If a homeowners' association fails to prove by
44 a preponderance of the evidence that the homeowners'
45 association complied with the requirements of this
46 subsection, the court shall:

47 (1) Award costs and reasonable attorney fees to the
48 prevailing party.

49 (2) Issue an order declaring any action taken by
50 the homeowners' association board at a meeting that

1 violated this subsection invalid and unenforceable.

2 (3) If the court determines that a violation of
3 this subsection is likely or about to occur, enjoin the
4 homeowners' association from committing the violation.

5 c. For purposes of this subsection, "homeowners'
6 association" means a corporation responsible for
7 the administration and operation of an area of real
8 property comprised of land and buildings used primarily
9 for human habitation, whose membership consists of
10 parcel owners or their agents, and, as a condition
11 of parcel ownership, membership in the corporation is
12 mandatory.

13 Sec. 3. APPLICABILITY. This Act applies to
14 homeowners' association board meetings and horizontal
15 property regime board of administration meetings
16 occurring on or after July 8, 2011.>

17 2. Title page, by striking lines 1 and 2 and
18 inserting <An Act relating to the meetings and
19 actions of the governing boards of certain nonprofit
20 corporations and horizontal property regimes and
21 including applicability provisions.>

HAGENOW of Polk