

House File 338
Commerce 3/11
Evans, chair
Brunow
Chiodo
Walter
West

Reprinted 5/77

AR : 1977

HOUSE FILE 338

By DAGGETT

Commerce

Amend per 3521
2/5 (p. 1734)

Passed House, Date 5-2-77 (p. 1784) Passed Senate, Date 5/2/77 (p. 1784)
Vote: Ayes 77 Nays 0 Vote: Ayes 77 Nays 0
Approved 7/9/77

A BILL FOR

- 1 An Act to provide that corporations organized under
- 2 Chapter four hundred ninety-one (491) of the Code
- 3 may elect to become cooperative associations under
- 4 chapter four hundred ninety-nine (499) of the Code.
- 5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 6
- 7
- 8

HOUSE FILE 338

H-3521

- 1 Amend House File 338 as follows:
- 2 1. Page 1, line 6, by inserting after the number
- 3 "(491)" the words "or chapter four hundred ninety-
- 4 six A (496A)".
- 5 2. Page 3, line 2, by inserting after the number
- 6 "(491)" the words "or chapter four hundred ninety-
- 7 six A (496A)".
- 8 3. Page 3, line 31, by inserting after the number
- 9 "(491)" the words "or chapter four hundred ninety-
- 10 six A (496A)".
- 11 4. Page 4, by inserting after line 8 the words
- 12 "or chapter four hundred ninety-six A (496A)".
- 13 5. Page 6, by inserting after line 21 the
- 14 following:
- 15 "Sec. 8. Chapter four hundred ninety-six A (496A),
- 16 Code 1977, is amended by adding the following new
- 17 section:
- 18 NEW SECTION. CONVERSION TO COOPERATIVE ASSOCIATION.
- 19 A corporation incorporated under this chapter may
- 20 become a cooperative association under chapter four
- 21 hundred ninety-nine (499) of the Code by complying
- 22 with the procedures established in sections one (1)
- 23 through six (6) of this Act."
- 24 6. Title page, line 2, by inserting after the
- 25 number "(491)" the words "or chapter four hundred
- 26 ninety-six A (496A)".

H-3521 FILED. Adopted 5/2
APRIL 5, 1977 (p. 1734)

BY COMMITTEE ON COMMERCE
SMALL of Johnson, Chair

1 Section 1. Chapter four hundred ninety-nine (499), Code
2 1977, is amended by adding sections two (2) through six (6)
3 of this Act.

4 Sec. 2. NEW SECTION. CONVERSION TO CHAPTER FOUR HUNDRED
5 NINETY-NINE (499) COOPERATIVE ASSOCIATION. A corporation
6 organized under chapter four hundred ninety-one (491) of the
7 Code may become a cooperative association under chapter four
8 hundred ninety-nine (499) of the Code when authorized in the
9 following manner:

10 1. The board of directors shall adopt a resolution recom-
11 mending that the corporation be converted to a cooperative
12 association under chapter four hundred ninety-nine (499) of
13 the Code. This resolution shall include proposed amendments
14 to the corporation's articles of incorporation which amend-
15 ments are necessary or desirable so the corporation may con-
16 form to the structure and organization required of coopera-
17 tive associations regulated by chapter four hundred ninety-
18 nine (499) of the Code. The resolution shall also direct
19 that the question of the conversion be submitted to a vote
20 at a meeting of shareholders. The shareholder meeting may
21 be either an annual or a special meeting.

22 2. Written or printed notice of the shareholder meeting
23 shall be delivered either personally or by mail not less than
24 twenty days before the meeting to each shareholder of record.
25 The notice shall state the place, day, hour and purpose of
26 the meeting. A copy and summary of the plan of conversion
27 including a copy and summary of proposed amendments to the
28 articles of incorporation shall be included in or enclosed
29 with the notice.

30 3. At the shareholder meeting a vote of the shareholders
31 entitled to vote shall be taken on the resolution including
32 the proposed article changes to convert the corporation.
33 The plan of conversion shall be adopted upon receiving the
34 affirmative vote of the holders of at least two-thirds of
35 the outstanding shares of the corporation which shares were

1 entitled to vote at such meeting, unless any class of shares
2 is entitled to vote as a class. In the event any class of
3 shares is entitled to vote as a class, the resolution shall
4 require for its adoption the affirmative vote of the holders
5 of at least a majority of the outstanding shares of each class
6 entitled to vote as a class thereon and two-thirds of the
7 total outstanding shares entitled to vote at the meeting.

8 4. Upon shareholder approval, the plan of conversion and
9 article amendments shall be executed on behalf of the
10 corporation by its president or a vice president and by its
11 secretary or an assistant secretary, and shall be verified
12 by one of the officers signing a statement, which statement
13 shall set forth:

14 a. The name of the corporation.

15 b. A copy of the plan of conversion adopted by the share-
16 holders including the amended articles of incorporation.

17 c. The number of shares of stock outstanding; the number
18 of shares entitled to vote; if the shares of any class were
19 entitled to vote as a class; the designation of each class
20 and the number of shares of that class entitled to vote.

21 d. The number of shares voted for and against the plan
22 of conversion, respectively. If the shares of any class were
23 entitled to vote as a class, the number of shares of each
24 class that voted for and against the plan, respectively.

25 Sec. 3. NEW SECTION. FILING OF CONVERSION PLAN AND NEW
26 ARTICLES. A duly executed and acknowledged copy of the
27 articles of incorporation as amended of the converted cor-
28 poration shall be forwarded to the secretary of state for
29 filing and recording. Upon approving the articles and payment
30 of fees as provided in section four hundred ninety-nine point
31 forty-five (499.45) of the Code, the secretary of state shall
32 issue a new certificate of incorporation and shall forward
33 the articles to the county recorder of the county where the
34 newly converted association has its principal place of
35 business. Upon the issuance of the new certificate of

1 incorporation the converted corporation's chapter four hundred
2 ninety-one (491) character shall cease and the chapter four
3 hundred ninety-nine (499) existence shall begin unless the
4 certificate in conformity with the amended articles of
5 incorporation provides that it shall become effective on a
6 stated day not more than ninety days in the future. In the
7 event the articles indicate a future effective date, the
8 conversion shall become effective on the day stated without
9 further action by either the corporation or secretary of
10 state.

11 Sec. 4. NEW SECTION. NOTICE. Notice of the corpora-
12 tion's conversion to a chapter four hundred ninety-nine (499)
13 cooperative association shall be given as provided in sec-
14 tions four hundred ninety-one point seventeen (491.17) and
15 four hundred ninety-one point eighteen (491.18) of the Code.
16 Included in the notice shall be a brief explanation that the
17 corporation has changed its corporate form to a chapter four
18 hundred ninety-nine (499) cooperative association.

19 Sec. 5. NEW SECTION. EFFECT OF CONVERSION. When the
20 conversion to a chapter four hundred ninety-nine (499) co-
21 operative association has become effected:

22 1. The converted corporation shall be subject to all the
23 duties and liabilities of a cooperative association under
24 chapter four hundred ninety-nine (499) of the Code as if the
25 corporation was initially organized under chapter four hundred
26 ninety-nine (499) of the Code.

27 2. The converted corporation shall possess all the rights,
28 privileges, immunities and franchises inuring to it before
29 the conversion except those which the corporation possessed
30 only because it was incorporated under chapter four hundred
31 ninety-one (491) of the Code. The converted corporation shall
32 possess all property, real, personal and mixed and all debts
33 due on whatever account, including subscriptions to shares,
34 and all other choses in action, and every other interest
35 belonging or due to or vesting in the corporation. These

1 property rights shall be taken and deemed to be transferred
2 to and vested in the converted corporation without further
3 action. Title to any real estate, or any interest therein,
4 vested in any such corporation shall not revert or be in any
5 way impaired by reason of such conversion.

6 3. The converted corporation shall be responsible and
7 liable for all the liabilities and obligations incurred while
8 it was organized under chapter four hundred ninety-one (491)
9 of the Code. Any claim existing or action or proceeding
10 pending by or against any such corporation may be prosecuted
11 to judgment as if the conversion had not taken place, or the
12 new cooperative association may be substituted in its place.
13 The rights of creditors and liens upon the property of the
14 converted corporation shall not be impaired by the conversion.

15 Sec. 6. NEW SECTION. RIGHTS OF DISSENTING SHAREHOLD-
16 ERS.

17 1. A shareholder of a corporation whose board of directors
18 adopted a resolution recommending conversion to a cooperative
19 association shall be entitled to the dissenting shareholder's
20 rights pursuant to this section if the shareholder does the
21 following:

22 a. Files with the corporation a written objection to the
23 resolution prior to or at the shareholder meeting at which
24 the conversion resolution is submitted to vote, and

25 b. Refrains from voting in favor of the conversion re-
26 solution, and

27 c. Within twenty days after the shareholder vote, makes
28 a written demand on the corporation for a payment of the fair
29 value of his or her shares as of the day prior to the date
30 on which the shareholder vote was taken approving the
31 conversion. This demand shall state the number and class
32 of the shares owned by the dissenting shareholder.

33 2. Upon the surrender of the shareholder's certificate
34 or certificates representing the shares, the converted cor-
35 poration shall pay the shareholder who complied with sub-

1 section one (1) of this section, the fair value for the shares.
2 Any shareholder failing to comply with subsection one (1)
3 of this section shall be presumed to have consented to the
4 conversion and shall be bound by the terms of the conversion.

5 3. If within thirty days after the shareholder vote, the
6 value of the dissenting shareholder's shares is agreed upon
7 by the dissenting shareholder and the corporation, payment
8 for those shares shall be made within ninety days after the
9 shareholder vote, upon the surrender of the shareholder's
10 certificate or certificates representing the shares. Upon
11 payment of the agreed value the dissenting shareholder shall
12 cease to have any interest in the shares or in the converted
13 corporation.

14 4. If within thirty days after the shareholder vote, the
15 value of the dissenting shareholder's shares is not agreed
16 upon by the dissenting shareholder and the corporation, the
17 dissenting shareholder may within sixty days after the
18 expiration of this thirty-day period, file a petition in the
19 district court of the district in which is located the
20 registered office or principal place of business of the
21 converted corporation. This petition shall ask for a finding
22 and determination of the fair value of these shares and the
23 dissenting shareholder shall be entitled to judgment against
24 the converted corporation for the amount of the fair value
25 of the shares valued at the day prior to the date on which
26 the shareholder vote was taken approving the conversion.
27 The dissenting shareholder shall also be entitled to interest
28 at the legal rate from the date of such judgment. The action,
29 if filed, shall be prosecuted as an equitable action and the
30 practice and procedure shall conform to the practice and
31 procedure in equity cases.

32 The court's judgment shall be payable only upon and
33 simultaneously with the surrender to the converted corporation
34 of the certificate or certificates representing the shares.
35 Upon payment of the judgment, the dissenting shareholder shall

1 cease to have any interest in such shares, or in the converted
2 corporation. Unless the dissenting shareholder shall file
3 such petition within the time specified, such shareholder
4 and all persons claiming under the shareholder shall be
5 presumed to have approved and ratified the conversion
6 resolution and shall be bound by its terms.

7 5. The right of a dissenting shareholder to be paid the
8 fair value of his or her shares as herein provided shall cease
9 if and when the corporation shall abandon the plan of
10 conversion.

11 6. Shares acquired by the corporation pursuant to the
12 payment of the agreed value or pursuant to payment of a
13 judgment entered into pursuant to this section may be held
14 and disposed of by the corporation as it may see fit.

15 Sec. 7. Chapter four hundred ninety-one (491), Code 1977,
16 is amended by adding the following new section:

17 NEW SECTION. CONVERSION TO COOPERATIVE ASSOCIATION. A
18 corporation incorporated under this chapter may become a
19 cooperative association under chapter four hundred ninety-
20 nine (499) of the Code by complying with the procedures es-
21 tablished in sections one (1) through six (6) of this Act.

22 EXPLANATION

23 This Act provides a procedure whereby a corporation in-
24 corporated under chapter 491 of the Code can convert to a
25 cooperative association under chapter 499. Under the pre-
26 sent law such conversion can only take place by dissolving
27 the corporation and reincorporating under chapter 499.

28
29
30
31
32
33
34
35

LSB 452H
rn/rh/BA

HOUSE FILE 338

H-3725

- 1 Amend House File 338 as follows:
- 2 1. Page 6, by inserting after line 21, the
- 3 following:
- 4 "Sec. _____ . The provisions of this act are
- 5 repealed effective July 1, 1979

H-3725 FILED. *Adopted 5/2* BY DAGGETT of Adams
APRIL 22, 1977 *(v 1784)*

See Commerce 5/9 D. P. 5/13

HOUSE FILE 338

Commerce
Bergman, Chairperson
Priebe
Burroughs

HOUSE FILE 338

By DAGGETT

(As Amended and Passed by the House)

Passed House, Date 5-2-77 (p. 1784) Passed Senate, Date 5-16-77 (p. 1542)

Vote: Ayes 77 Nays 0 Vote: Ayes 44 Nays 3

Approved 7/9/77

A BILL FOR

1 An Act to provide that corporations organized under
2 chapter four hundred ninety-one (491) or chapter four
3 hundred ninety-six A (496A) of the Code may elect
4 to become cooperative associations under chapter four
5 hundred ninety-nine (499) of the Code.

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

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

House Amendments _____

1 Section 1. Chapter four hundred ninety-nine (499), Code
2 1977, is amended by adding sections two (2) through six (6)
3 of this Act.

4 Sec. 2. NEW SECTION. CONVERSION TO CHAPTER FOUR HUNDRED
5 NINETY-NINE (499) COOPERATIVE ASSOCIATION. A corporation
6 organized under chapter four hundred ninety-one (491) or
7 chapter four hundred ninety-six A (496A) of the Code may
8 become a cooperative association under chapter four hundred
9 ninety-nine (499) of the Code when authorized in the following
10 manner:

11 1. The board of directors shall adopt a resolution
12 recommending that the corporation be converted to a cooperative
13 association under chapter four hundred ninety-nine (499) of
14 the Code. This resolution shall include proposed amendments
15 to the corporation's articles of incorporation which amendments
16 are necessary or desirable so the corporation may conform
17 to the structure and organization required of cooperative
18 associations regulated by chapter four hundred ninety-nine
19 (499) of the Code. The resolution shall also direct that
20 the question of the conversion be submitted to a vote at a
21 meeting of shareholders. The shareholder meeting may be
22 either an annual or a special meeting.

23 2. Written or printed notice of the shareholder meeting
24 shall be delivered either personally or by mail not less than
25 twenty days before the meeting to each shareholder of record.
26 The notice shall state the place, day, hour and purpose of
27 the meeting. A copy and summary of the plan of conversion
28 including a copy and summary of proposed amendments to the
29 articles of incorporation shall be included in or enclosed
30 with the notice.

31 3. At the shareholder meeting a vote of the shareholders
32 entitled to vote shall be taken on the resolution including
33 the proposed article changes to convert the corporation.
34 The plan of conversion shall be adopted upon receiving the
35 affirmative vote of the holders of at least two-thirds of

1 the outstanding shares of the corporation which shares were
2 entitled to vote at such meeting, unless any class of shares
3 is entitled to vote as a class. In the event any class of
4 shares is entitled to vote as a class, the resolution shall
5 require for its adoption the affirmative vote of the holders
6 of at least a majority of the outstanding shares of each class
7 entitled to vote as a class thereon and two-thirds of the
8 total outstanding shares entitled to vote at the meeting.

9 4. Upon shareholder approval, the plan of conversion and
10 article amendments shall be executed on behalf of the
11 corporation by its president or a vice president and by its
12 secretary or an assistant secretary, and shall be verified
13 by one of the officers signing a statement, which statement
14 shall set forth:

15 a. The name of the corporation.

16 b. A copy of the plan of conversion adopted by the
17 shareholders including the amended articles of incorporation.

18 c. The number of shares of stock outstanding; the number
19 of shares entitled to vote; if the shares of any class were
20 entitled to vote as a class; the designation of each class
21 and the number of shares of that class entitled to vote.

22 d. The number of shares voted for and against the plan
23 of conversion, respectively. If the shares of any class were
24 entitled to vote as a class, the number of shares of each
25 class that voted for and against the plan, respectively.

26 Sec. 3. NEW SECTION. FILING OF CONVERSION PLAN AND NEW
27 ARTICLES. A duly executed and acknowledged copy of the
28 articles of incorporation as amended of the converted
29 corporation shall be forwarded to the secretary of state for
30 filing and recording. Upon approving the articles and payment
31 of fees as provided in section four hundred ninety-nine point
32 forty-five (499.45) of the Code, the secretary of state shall
33 issue a new certificate of incorporation and shall forward
34 the articles to the county recorder of the county where the
35 newly converted association has its principal place of

1 business. Upon the issuance of the new certificate of
2 incorporation the converted corporation's chapter four hundred
3 ninety-one (491) or chapter four hundred ninety-six A (496A)
4 character shall cease and the chapter four hundred ninety-
5 nine (499) existence shall begin unless the certificate in
6 conformity with the amended articles of incorporation provides
7 that it shall become effective on a stated day not more than
8 ninety days in the future. In the event the articles indicate
9 a future effective date, the conversion shall become effective
10 on the day stated without further action by either the
11 corporation or secretary of state.

12 Sec. 4. NEW SECTION. NOTICE. Notice of the corporation's
13 conversion to a chapter four hundred ninety-nine (499)
14 cooperative association shall be given as provided in sections
15 four hundred ninety-one point seventeen (491.17) and four
16 hundred ninety-one point eighteen (491.18) of the Code.
17 Included in the notice shall be a brief explanation that the
18 corporation has changed its corporate form to a chapter four
19 hundred ninety-nine (499) cooperative association.

20 Sec. 5. NEW SECTION. EFFECT OF CONVERSION. When the
21 conversion to a chapter four hundred ninety-nine (499)
22 cooperative association has become effected:

23 1. The converted corporation shall be subject to all the
24 duties and liabilities of a cooperative association under
25 chapter four hundred ninety-nine (499) of the Code as if the
26 corporation was initially organized under chapter four hundred
27 ninety-nine (499) of the Code.

28 2. The converted corporation shall possess all the rights,
29 privileges, immunities and franchises inuring to it before
30 the conversion except those which the corporation possessed
31 only because it was incorporated under chapter four hundred
32 ninety-one (491) or chapter four hundred ninety-six A (496A)
33 of the Code. The converted corporation shall possess all
34 property, real, personal and mixed and all debts due on
35 whatever account, including subscriptions to shares, and all

1 other choses in action, and every other interest belonging
2 or due to or vesting in the corporation. These property
3 rights shall be taken and deemed to be transferred to and
4 vested in the converted corporation without further action.
5 Title to any real estate, or any interest therein, vested
6 in any such corporation shall not revert or be in any way
7 impaired by reason of such conversion.

8 3. The converted corporation shall be responsible and
9 liable for all the liabilities and obligations incurred while
10 it was organized under chapter four hundred ninety-one (491)
11 or chapter four hundred ninety-six A (496A) of the Code.
12 Any claim existing or action or proceeding pending by or
13 against any such corporation may be prosecuted to judgment
14 as if the conversion had not taken place, or the new
15 cooperative association may be substituted in its place.
16 The rights of creditors and liens upon the property of the
17 converted corporation shall not be impaired by the conversion.

18 Sec. 6. NEW SECTION. RIGHTS OF DISSENTING SHAREHOLDERS.

19 1. A shareholder of a corporation whose board of directors
20 adopted a resolution recommending conversion to a cooperative
21 association shall be entitled to the dissenting shareholder's
22 rights pursuant to this section if the shareholder does the
23 following:

24 a. Files with the corporation a written objection to the
25 resolution prior to or at the shareholder meeting at which
26 the conversion resolution is submitted to vote, and

27 b. Refrains from voting in favor of the conversion
28 resolution, and

29 c. Within twenty days after the shareholder vote, makes
30 a written demand on the corporation for a payment of the fair
31 value of his or her shares as of the day prior to the date
32 on which the shareholder vote was taken approving the
33 conversion. This demand shall state the number and class
34 of the shares owned by the dissenting shareholder.

35 2. Upon the surrender of the shareholder's certificate

1 or certificates representing the shares, the converted
2 corporation shall pay the shareholder who complied with
3 subsection one (1) of this section, the fair value for the
4 shares. Any shareholder failing to comply with subsection
5 one (1) of this section shall be presumed to have consented
6 to the conversion and shall be bound by the terms of the
7 conversion.

8 3. If within thirty days after the shareholder vote, the
9 value of the dissenting shareholder's shares is agreed upon
10 by the dissenting shareholder and the corporation, payment
11 for those shares shall be made within ninety days after the
12 shareholder vote, upon the surrender of the shareholder's
13 certificate or certificates representing the shares. Upon
14 payment of the agreed value the dissenting shareholder shall
15 cease to have any interest in the shares or in the converted
16 corporation.

17 4. If within thirty days after the shareholder vote, the
18 value of the dissenting shareholder's shares is not agreed
19 upon by the dissenting shareholder and the corporation, the
20 dissenting shareholder may within sixty days after the
21 expiration of this thirty-day period, file a petition in the
22 district court of the district in which is located the
23 registered office or principal place of business of the
24 converted corporation. This petition shall ask for a finding
25 and determination of the fair value of these shares and the
26 dissenting shareholder shall be entitled to judgment against
27 the converted corporation for the amount of the fair value
28 of the shares valued at the day prior to the date on which
29 the shareholder vote was taken approving the conversion.
30 The dissenting shareholder shall also be entitled to interest
31 at the legal rate from the date of such judgment. The action,
32 if filed, shall be prosecuted as an equitable action and the
33 practice and procedure shall conform to the practice and
34 procedure in equity cases.

35 The court's judgment shall be payable only upon and

1 simultaneously with the surrender to the converted corporation
2 of the certificate or certificates representing the shares.
3 Upon payment of the judgment, the dissenting shareholder shall
4 cease to have any interest in such shares, or in the converted
5 corporation. Unless the dissenting shareholder shall file
6 such petition within the time specified, such shareholder
7 and all persons claiming under the shareholder shall be
8 presumed to have approved and ratified the conversion
9 resolution and shall be bound by its terms.

10 5. The right of a dissenting shareholder to be paid the
11 fair value of his or her shares as herein provided shall cease
12 if and when the corporation shall abandon the plan of
13 conversion.

14 6. Shares acquired by the corporation pursuant to the
15 payment of the agreed value or pursuant to payment of a
16 judgment entered into pursuant to this section may be held
17 and disposed of by the corporation as it may see fit.

18 Sec. 7. Chapter four hundred ninety-one (491), Code 1977,
19 is amended by adding the following new section:

20 NEW SECTION. CONVERSION TO COOPERATIVE ASSOCIATION. A
21 corporation incorporated under this chapter may become a
22 cooperative association under chapter four hundred ninety-
23 nine (499) of the Code by complying with the procedures
24 established in sections one (1) through six (6) of this Act.

25 Sec. 8. Chapter four hundred ninety-six A (496A), Code
26 1977, is amended by adding the following new section:

27 NEW SECTION. CONVERSION TO COOPERATIVE ASSOCIATION. A
28 corporation incorporated under this chapter may become a
29 cooperative association under chapter four hundred ninety-
30 nine (499) of the Code by complying with the procedures
31 established in sections one (1) through six (6) of this Act.

32 Sec. 9. The provisions of this Act are repealed effective
33 July 1, 1979.

34 EXPLANATION

35 This Act provides a procedure whereby a corporation

1 incorporated under chapter 491 of the Code can convert to
2 a cooperative association under chapter 499. Under the present
3 law such conversion can only take place by dissolving the
4 corporation and reincorporating under chapter 499.

- 5
- 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

HOUSE FILE 338

AN ACT

TO PROVIDE THAT CORPORATIONS ORGANIZED UNDER CHAPTER FOUR HUNDRED NINETY-ONE (491) OR CHAPTER FOUR HUNDRED NINETY-SIX A (496A) OF THE CODE MAY ELECT TO BECOME COOPERATIVE ASSOCIATIONS UNDER CHAPTER FOUR HUNDRED NINETY-NINE (499) OF THE CODE.

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

Section 1. Chapter four hundred ninety-nine (499), Code 1977, is amended by adding sections two (2) through six (6) of this Act.

Sec. 2. NEW SECTION. CONVERSION TO CHAPTER FOUR HUNDRED NINETY-NINE (499) COOPERATIVE ASSOCIATION. A corporation organized under chapter four hundred ninety-one (491) or chapter four hundred ninety-six A (496A) of the Code may become a cooperative association under chapter four hundred ninety-nine (499) of the Code when authorized in the following manner:

1. The board of directors shall adopt a resolution recommending that the corporation be converted to a cooperative association under chapter four hundred ninety-nine (499) of the Code. This resolution shall include proposed amendments to the corporation's articles of incorporation which amendments are necessary or desirable so the corporation may conform to the structure and organization required of cooperative associations regulated by chapter four hundred ninety-nine (499) of the Code. The resolution shall also direct that the question of the conversion be submitted to a vote at a meeting of shareholders. The shareholder meeting may be either an annual or a special meeting.

2. Written or printed notice of the shareholder meeting shall be delivered either personally or by mail not less than

twenty days before the meeting to each shareholder of record. The notice shall state the place, day, hour and purpose of the meeting. A copy and summary of the plan of conversion including a copy and summary of proposed amendments to the articles of incorporation shall be included in or enclosed with the notice.

3. At the shareholder meeting a vote of the shareholders entitled to vote shall be taken on the resolution including the proposed article changes to convert the corporation. The plan of conversion shall be adopted upon receiving the affirmative vote of the holders of at least two-thirds of the outstanding shares of the corporation which shares were entitled to vote at such meeting, unless any class of shares is entitled to vote as a class. In the event any class of shares is entitled to vote as a class, the resolution shall require for its adoption the affirmative vote of the holders of at least a majority of the outstanding shares of each class entitled to vote as a class thereon and two-thirds of the total outstanding shares entitled to vote at the meeting.

4. Upon shareholder approval, the plan of conversion and article amendments shall be executed on behalf of the corporation by its president or a vice president and by its secretary or an assistant secretary, and shall be verified by one of the officers signing a statement, which statement shall set forth:

- a. The name of the corporation.
- b. A copy of the plan of conversion adopted by the shareholders including the amended articles of incorporation.
- c. The number of shares of stock outstanding; the number of shares entitled to vote; if the shares of any class were entitled to vote as a class; the designation of each class and the number of shares of that class entitled to vote.
- d. The number of shares voted for and against the plan of conversion, respectively. If the shares of any class were entitled to vote as a class, the number of shares of each

class that voted for and against the plan, respectively.

Sec. 3. NEW SECTION. FILING OF CONVERSION PLAN AND NEW ARTICLES. A duly executed and acknowledged copy of the articles of incorporation as amended of the converted corporation shall be forwarded to the secretary of state for filing and recording. Upon approving the articles and payment of fees as provided in section four hundred ninety-nine point forty-five (499.45) of the Code, the secretary of state shall issue a new certificate of incorporation and shall forward the articles to the county recorder of the county where the newly converted association has its principal place of business. Upon the issuance of the new certificate of incorporation the converted corporation's chapter four hundred ninety-one (491) or chapter four hundred ninety-six A (496A) character shall cease and the chapter four hundred ninety-nine (499) existence shall begin unless the certificate in conformity with the amended articles of incorporation provides that it shall become effective on a stated day not more than ninety days in the future. In the event the articles indicate a future effective date, the conversion shall become effective on the day stated without further action by either the corporation or secretary of state.

Sec. 4. NEW SECTION. NOTICE. Notice of the corporation's conversion to a chapter four hundred ninety-nine (499) cooperative association shall be given as provided in sections four hundred ninety-one point seventeen (491.17) and four hundred ninety-one point eighteen (491.18) of the Code. Included in the notice shall be a brief explanation that the corporation has changed its corporate form to a chapter four hundred ninety-nine (499) cooperative association.

Sec. 5. NEW SECTION. EFFECT OF CONVERSION. When the conversion to a chapter four hundred ninety-nine (499) cooperative association has become effected:

1. The converted corporation shall be subject to all the duties and liabilities of a cooperative association under

chapter four hundred ninety-nine (499) of the Code as if the corporation was initially organized under chapter four hundred ninety-nine (499) of the Code.

2. The converted corporation shall possess all the rights, privileges, immunities and franchises inuring to it before the conversion except those which the corporation possessed only because it was incorporated under chapter four hundred ninety-one (491) or chapter four hundred ninety-six A (496A) of the Code. The converted corporation shall possess all property, real, personal and mixed and all debts due on whatever account, including subscriptions to shares, and all other choses in action, and every other interest belonging or due to or vesting in the corporation. These property rights shall be taken and deemed to be transferred to and vested in the converted corporation without further action. Title to any real estate, or any interest therein, vested in any such corporation shall not revert or be in any way impaired by reason of such conversion.

3. The converted corporation shall be responsible and liable for all the liabilities and obligations incurred while it was organized under chapter four hundred ninety-one (491) or chapter four hundred ninety-six A (496A) of the Code. Any claim existing or action or proceeding pending by or against any such corporation may be prosecuted to judgment as if the conversion had not taken place, or the new cooperative association may be substituted in its place. The rights of creditors and liens upon the property of the converted corporation shall not be impaired by the conversion.

Sec. 6. NEW SECTION. RIGHTS OF DISSENTING SHAREHOLDERS.

1. A shareholder of a corporation whose board of directors adopted a resolution recommending conversion to a cooperative association shall be entitled to the dissenting shareholder's rights pursuant to this section if the shareholder does the following:

a. Files with the corporation a written objection to the

resolution prior to or at the shareholder meeting at which the conversion resolution is submitted to vote, and

b. Refrains from voting in favor of the conversion resolution, and

c. Within twenty days after the shareholder vote, makes a written demand on the corporation for a payment of the fair value of his or her shares as of the day prior to the date on which the shareholder vote was taken approving the conversion. This demand shall state the number and class of the shares owned by the dissenting shareholder.

2. Upon the surrender of the shareholder's certificate or certificates representing the shares, the converted corporation shall pay the shareholder who complied with subsection one (1) of this section, the fair value for the shares. Any shareholder failing to comply with subsection one (1) of this section shall be presumed to have consented to the conversion and shall be bound by the terms of the conversion.

3. If within thirty days after the shareholder vote, the value of the dissenting shareholder's shares is agreed upon by the dissenting shareholder and the corporation, payment for those shares shall be made within ninety days after the shareholder vote, upon the surrender of the shareholder's certificate or certificates representing the shares. Upon payment of the agreed value the dissenting shareholder shall cease to have any interest in the shares or in the converted corporation.

4. If within thirty days after the shareholder vote, the value of the dissenting shareholder's shares is not agreed upon by the dissenting shareholder and the corporation, the dissenting shareholder may within sixty days after the expiration of this thirty-day period, file a petition in the district court of the district in which is located the registered office or principal place of business of the converted corporation. This petition shall ask for a finding

and determination of the fair value of these shares and the dissenting shareholder shall be entitled to judgment against the converted corporation for the amount of the fair value of the shares valued at the day prior to the date on which the shareholder vote was taken approving the conversion. The dissenting shareholder shall also be entitled to interest at the legal rate from the date of such judgment. The action, if filed, shall be prosecuted as an equitable action and the practice and procedure shall conform to the practice and procedure in equity cases.

The court's judgment shall be payable only upon and simultaneously with the surrender to the converted corporation of the certificate or certificates representing the shares. Upon payment of the judgment, the dissenting shareholder shall cease to have any interest in such shares, or in the converted corporation. Unless the dissenting shareholder shall file such petition within the time specified, such shareholder and all persons claiming under the shareholder shall be presumed to have approved and ratified the conversion resolution and shall be bound by its terms.

5. The right of a dissenting shareholder to be paid the fair value of his or her shares as herein provided shall cease if and when the corporation shall abandon the plan of conversion.

6. Shares acquired by the corporation pursuant to the payment of the agreed value or pursuant to payment of a judgment entered into pursuant to this section may be held and disposed of by the corporation as it may see fit.

Sec. 7. Chapter four hundred ninety-one (491), Code 1977, is amended by adding the following new section:

NEW SECTION. CONVERSION TO COOPERATIVE ASSOCIATION. A corporation incorporated under this chapter may become a cooperative association under chapter four hundred ninety-nine (499) of the Code by complying with the procedures established in sections one (1) through six (6) of this Act.

Sec. 8. Chapter four hundred ninety-six A (496A), Code 1977, is amended by adding the following new section:

NEW SECTION. CONVERSION TO COOPERATIVE ASSOCIATION. A corporation incorporated under this chapter may become a cooperative association under chapter four hundred ninety-nine (499) of the Code by complying with the procedures established in sections one (1) through six (6) of this Act.

Sec. 9. The provisions of this Act are repealed effective July 1, 1979.

DALE M. COCHRAN
Speaker of the House

ARTHUR A. NEU
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 338, Sixty-seventh General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved July 9, 1977

ROBERT D. RAY
Governor