

# Senate Study Bill 174

## Bill Text

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1 1 Section 1. Section [499.13](#), Code 1997, is amended to read  
1 2 as follows:  
1 3 499.13 MEMBERSHIP - ELIGIBILITY.  
1 4

~~No~~  
- A membership or share of common stock shall  
.  
~~ever~~  
- not be  
1 5 issued to, or held by, any  
.  
~~party not~~  
- person unless the person  
1 6 is eligible  
.  
~~to~~  
- for membership in the association under its  
1 7 articles.  
.  
~~Individuals~~  
- A person may be  
.  
~~made~~  
- eligible only if  
1 8  
.  
~~they are~~  
- the person is engaged in producing  
.  
~~products~~  
- a product  
1 9 marketed by the association,  
.  
~~or if they~~  
- the person customarily  
1 10  
.  
~~consume~~  
- consumes or  
.  
~~use~~  
- uses the supplies or commodities  
.  
~~it~~  
-  
1 11 that the association handles, or  
.  
~~use~~  
- the person uses the  
1 12 services  
.  
~~it~~  
- that the association renders.  
.  
~~Farm tenants, and~~

-  
1 13  
.  
~~landlords~~  
- A farm tenant or landlord who  
.  
~~receive~~  
- receives a  
1 14 share of agricultural products as rent  
.  
-  
- may be  
.  
~~made~~  
- eligible  
1 15  
.  
~~to~~  
- for membership in an agricultural  
.  
~~associations~~  
- association  
1 16 as  
.  
~~producers~~  
- a producer.  
.  
~~Other associations~~  
- A cooperative  
1 17 association engaged in any directly or indirectly related  
1 18 activity may be  
.  
~~made~~  
- eligible  
.  
~~to~~  
- for membership.  
.  
~~Federated~~  
-  
1 19  
.  
~~associations~~  
- An association may be formed  
.  
~~whose membership is~~  
-  
1 20  
.  
~~restricted~~  
- which includes among its members cooperative  
1 21 associations or restricts its membership to cooperative  
1 22 associations.  
1 23 Sec. 2. Section 499.16, Code 1997, is amended to read as  
1 24 follows:  
1 25 499.16 SUBSCRIPTIONS - ISSUING CERTIFICATES.  
1 26 If permitted by the association's articles  
.  
~~permit~~  
- of  
1 27 incorporation, any eligible subscriber for common stock or  
1 28 membership may vote and be treated as a member, after making  
1 29 part payment  
.  
~~therefor~~  
- for the common stock or membership in  
1 30 cash

~~and~~

- giving the subscriber's note for the balance, and  
1 31 satisfying any other requirement for the subscription as set  
1 32 forth in the articles.

~~Such subscriptions~~

- A subscription may  
1 33 be forfeited as provided in section 499.32.

~~No stock~~

- Stock or  
1 34 a membership certificate shall not be issued until payment for  
1 35 the stock or membership certificate is fully

~~paid for~~

- made.  
2 1

~~No~~

- A subscriber shall not hold office until the subscriber's  
2 2 certificate has been issued.  
2 3 Sec. 3. Section 499.22, Code 1997, is amended to read as  
2 4 follows:  
2 5 499.22 CAPITAL STOCK.  
2 6

~~Associations~~

- An association with capital stock may divide  
2 7 the shares into common and preferred stock. Par value stock  
2 8 shall not be issued for less than par. The general  
2 9 corporation laws shall govern the consideration for which no-  
2 10 par stock is issued. If the articles so provide, common stock  
2 11 may be issued in two classes, voting and nonvoting. Voting  
2 12 stock shall be issued to all agricultural producers and  
2 13 nonvoting stock to all other members. Voting stock or  
2 14 nonvoting stock may be issued to a cooperative association as  
2 15 provided in the cooperative association's articles of  
2 16 incorporation. Nonvoting stock shall have all privileges of  
2 17 membership except the right to vote. Preferred stock held by  
2 18 nonmembers shall not exceed in amount that held by members.  
2 19 Sec. 4. Section 499.36, subsections 1 and 2, Code 1997,  
2 20 are amended to read as follows:  
2 21 1. The affairs of each association shall be managed by a  
2 22 board of

~~not less than five~~  
- directors

~~, who~~

- 1A. a. A director must be  
2 23

~~members~~

- a member of the  
2 24 association or

~~officers~~

- an officer or

~~members~~

- a member of a  
2 25 member-association.

~~They~~

- A director shall be elected by the  
2 26 members as prescribed by the association's articles

~~prescribe~~

~~2 27 of incorporation.~~

~~2 28 b. At least five directors shall serve on the  
2 29 association's board. The number of directors shall be  
2 30 established in accordance with the association's articles of  
2 31 incorporation or bylaws. If a board has the power to fix or  
2 32 change the number of directors, the board may increase or  
2 33 decrease by thirty percent or less the number of directors  
2 34 last approved by the members. Only the members may increase  
2 35 or decrease by more than thirty percent the number of  
3 1 directors last approved by the members.~~

~~3 2 c. The articles of incorporation may establish a variable  
3 3 range for the size of the board by fixing a minimum and  
3 4 maximum number of directors. If a variable range is  
3 5 established, the number of directors may be fixed or changed  
3 6 from time to time, within the minimum and maximum number, by  
3 7 the members or the board. After shares are issued, only the  
3 8 members may change the range for the size of the board, change  
3 9 from a fixed to a variable-range-size board, or change from a  
3 10 variable-size to a fixed-size board.~~

~~3 11 2. a. Unless the articles or bylaws otherwise provide,  
3 12~~

~~vacancies in~~

~~if a vacancy occurs on the board~~

~~shall~~

~~, including~~

~~3 13 a vacancy resulting from an increase in the number of  
3 14 directors, the vacancy may be filled by~~

~~the remaining~~

~~3 15~~

~~directors, the director thus selected to serve for the~~

~~3 16~~

~~remainder of the vacant term.~~

~~any of the following:~~

~~3 17 (1) The shareholders.~~

~~3 18 (2) The board.~~

~~3 19 (3) If the directors remaining in office constitute fewer  
3 20 than a quorum of the board, the directors may fill the vacancy  
3 21 by the affirmative vote of all the directors remaining in  
3 22 office.~~

~~3 23 b. A vacancy that will occur at a specific later date, by  
3 24 reason of a resignation effective at a later date, may be  
3 25 filled before the vacancy occurs. The new director shall not  
3 26 take office until the vacancy occurs.~~

~~3 27 Sec. 5. Section 499.40, subsection 5, Code 1997, is  
3 28 amended to read as follows:~~

~~3 29 5. The following information regarding the directors:~~

~~3 30 a. Their number~~

~~of directors, their~~

~~3 31 b. Whether there is a fixed number or a variable range as  
3 32 provided in section 499.36. If a variable range is  
3 33 established, the information shall include the minimum and  
3 34 maximum number.~~

~~3 35 c. Their qualifications~~

~~and~~

4 1 d. Their terms of office

~~, and how~~

4 2 e. How they shall be chosen and removed from office.

4 3 Sec. 6. Section [499.44](#), Code 1997, is amended by adding  
4 4 the following new subsection:

4 5 NEW SUBSECTION. 3A. A document required to be filed with  
4 6 the secretary of state pursuant to this chapter is effective  
4 7 at the later of the following times:

4 8 a. The time of filing on the date it is filed, as  
4 9 evidenced by the secretary of state's date and time  
4 10 endorsement on the original document.

4 11 b. The delayed effective time and date specified in the  
4 12 document. If a delayed effective date but no time is  
4 13 specified in the document, the document is effective at the  
4 14 close of business on that date. A delayed effective date for  
4 15 a document shall not be later than the ninetieth day after the  
4 16 date it is filed.

4 17 Sec. 7. Section [499.64](#), unnumbered paragraph 1, Code 1997,  
4 18 is amended to read as follows:

4 19 The board of directors of

~~each~~

- a cooperative association,

4 20 upon approving a plan of merger or consolidation, shall, by  
4 21 motion or resolution, direct that the plan be submitted to a  
4 22 vote at a meeting of members, which may be either an annual or  
4 23 special meeting. Written notice shall be given not less than  
4 24 twenty days prior to the meeting, either personally or by mail  
4 25 to each voting member and shareholder of record. The notice  
4 26 shall state the time, place, and purpose of the meeting, and a  
4 27 summary of the plan of merger or consolidation shall be  
4 28 included in or enclosed with the notice.

4 29 EXPLANATION

4 30 Code chapter 499 governs the organization and regulation of  
4 31 cooperative associations. This bill amends a number of  
4 32 provisions in the chapter, including the following:

4 33 Code section 499.13 provides for membership eligibility.

4 34 The bill amends a provision which allows associations to  
4 35 become members of other associations, including federated  
5 1 associations. The bill changes this provision by providing  
5 2 that a cooperative association may be a member of an  
5 3 association and that an association may be formed which  
5 4 includes among its members cooperative associations.

5 5 Code section 499.16 provides requirements for subscribers  
5 6 purchasing common stock or membership interest in an  
5 7 association. The bill provides that the subscriber must  
5 8 satisfy any requirement set forth in the association's  
5 9 articles of incorporation in order to be eligible to make the  
5 10 purchase.

5 11 Code section 499.22 provides for an association's capital  
5 12 stock requirements. The bill amends this section by providing  
5 13 that voting stock or nonvoting stock may be issued to a  
5 14 cooperative association as provided in the cooperative  
5 15 association's articles of incorporation.

5 16 Code section 499.36 provides for an association's board of  
5 17 directors. The bill contains provisions similar to provisions  
5 18 contained in Code chapter 490 providing for the organization  
5 19 and regulation of corporations. The bill authorizes a board  
5 20 of directors to increase or decrease the number of directors  
5 21 sitting on the board but not by more than 30 percent of the  
5 22 number last approved by the membership. The bill provides  
5 23 that the articles of incorporation may establish a variable  
5 24 range for the size of the board, with membership changing  
5 25 within limits set in the articles. The bill provides that,

5 26 after shares are issued, only the membership may change the  
5 27 range for the size of the board, change from a fixed to a  
5 28 variable-range-size board, or change from a variable-size to a  
5 29 fixed-size board. The bill amends provisions relating to  
5 30 vacancies by providing that a vacancy may be filled by the  
5 31 shareholders, the board, or the unanimous vote of board  
5 32 members constituting less than a quorum. The bill also  
5 33 provides for filling vacancies occurring at a future time  
5 34 because of a resignation.

5 35 Code section 499.40 relates to information required to be  
6 1 included in an association's articles of incorporation. The  
6 2 bill provides that information regarding the board of  
6 3 directors must include whether there is a fixed number or a  
6 4 variable range and the minimum and maximum numbers that the  
6 5 board may have.

6 6 Code section 499.44 relates to the execution and filing of  
6 7 documents. The bill provides that a document required to be  
6 8 filed with the secretary of state under the chapter becomes  
6 9 effective at the time of filing or the delayed effective date  
6 10 specified in the document.

6 11 Code section 499.64 provides for voting by members and  
6 12 shareholders on a plan of merger or consolidation. The bill  
6 13 provides that notice of a meeting for the vote must be  
6 14 delivered to voting members and shareholders rather than all  
6 15 members and shareholders.

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