

MAR 8 2001
Place On Calendar

5-3/20/01 Agriculture
5-4/5/01 Do Pass
5-4/12/01 UNFINISHED BUSINESS CALENDAR

HOUSE FILE 564
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HF 372)

Passed House, Date ^(P.784) 3/20/01
Vote: Ayes 96 Nays 0

Passed Senate, Date ^(P.1252) 4/23/01
Vote: Ayes 43 Nays 4

Approved May 16, 2001
Re Passed 4-27-01
Vote 91-1

A BILL FOR

1 An Act providing for the reversion of dividends and distributions
2 by certain cooperative associations.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HF 564

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PATRIAL

1 Section 1. Section 490.140, Code 2001, is amended by
2 adding the following new subsection:

3 NEW SUBSECTION. 3A. "Cooperative association" means an
4 entity which is structured and operated on a cooperative basis
5 pursuant to 26 U.S.C. § 1381(a) and which meets the
6 definitional requirements of an association as provided in 12
7 U.S.C. § 1141(j)(a) or 7 U.S.C. § 291.

8 Sec. 2. NEW SECTION. 490.629 REVERSION OF DISBURSEMENTS
9 TO COOPERATIVE ASSOCIATIONS.

10 1. As used in this section, "disbursement" means an amount
11 of any distribution or any other increment or sum realized or
12 accruing from stock or other equity interest in a cooperative
13 association organized under this chapter.

14 2. Once a person's stock or other equity interest in a
15 cooperative association organized under this chapter is deemed
16 abandoned under section 556.5, any disbursement held by the
17 cooperative association for or owing to the person shall be
18 subject to the same requirements as provided in section
19 499.30A that applies to a cooperative association organized
20 under chapter 499, including all of the following:

21 a. The retention of the disbursement in a reversion fund
22 established by the cooperative association or the delivery of
23 the disbursement to the treasurer of state.

24 b. The payment of the disbursement to a person filing a
25 claim with the cooperative association who asserts an interest
26 in the disbursement.

27 c. The forfeiture of the disbursement to the cooperative
28 association, and the use of the forfeited disbursement by the
29 cooperative association in order to teach and promote
30 cooperation or provide for economic development, including
31 creating economic opportunities for its shareholders.

32 Sec. 3. NEW SECTION. 499.30A REVERSION OF DISBURSEMENTS.

33 1. As used in this section, "disbursement" means an amount
34 of any dividend, patronage dividend, distribution including
35 earnings distribution, or any other increment or sum realized

1 or accruing from a membership or stock, subscription, or other
2 equity interest in a cooperative association.

3 2. Once a person's membership or stock, subscription, or
4 other member's equity in a cooperative association is deemed
5 abandoned under section 556.5, the cooperative association may
6 retain any disbursement held by the cooperative association
7 for or owing to the person. The cooperative association may
8 also deliver the disbursement to the treasurer of state for
9 disposition as abandoned property pursuant to section 556.5.

10 3. If the cooperative association elects to retain the
11 disbursement under this section, the disbursement shall be
12 deposited into a reversion fund established by the cooperative
13 association.

14 4. a. Subject to this subsection, a person asserting an
15 interest in the disbursement may file a claim for it with the
16 cooperative association in a manner and according to
17 procedures required by the cooperative association. If a
18 person is entitled to an abandoned membership, stock,
19 subscription, or other interest as provided in section 556.20
20 or 556.21, the cooperative association shall also pay the
21 person the disbursement deposited in the reversion fund that
22 is realized or accrued from the membership or stock,
23 subscription, or other interest.

24 b. If a person has not filed a claim for the disbursement
25 within one year after the disbursement has been deposited into
26 the cooperative association's reversion fund, the disbursement
27 shall be forfeited to the cooperative association, unless the
28 cooperative association provides otherwise in its articles of
29 incorporation or bylaws.

30 5. The disbursement deposited into the reversion fund that
31 is forfeited to the cooperative association shall be used as
32 the directors deem suitable for any of the following purposes:

33 a. Teaching and promoting cooperation. The directors may
34 deposit the amounts of disbursements into the education fund
35 as provided in section 499.30.

1 b. Economic development including private or joint public
2 and private investments involving the creation of economic
3 opportunities for its members or the retention of existing
4 sources of income that would otherwise be lost.

5 Sec. 4. Section 556.1, subsection 2, Code 2001, is amended
6 to read as follows:

7 2. "Business association" means a corporation, cooperative
8 association, joint stock company, business trust, investment
9 company, partnership, limited liability company, trust
10 company, mutual fund, or other business entity consisting of
11 one or more persons, whether or not for profit.

12 Sec. 5. Section 556.1, Code 2001, is amended by adding the
13 following new subsection:

14 NEW SUBSECTION. 2A. "Cooperative association" means an
15 entity which is structured and operated on a cooperative
16 basis, including an association of persons organized under
17 chapter 497, 498, or 499; an entity composed of entities
18 organized under those chapters; a cooperative corporation
19 organized under chapter 501; a cooperative association
20 organized under chapter 490; or any other entity recognized
21 pursuant to 26 U.S.C. § 1381(a) which meets the definitional
22 requirements of an association as provided in 12 U.S.C. §
23 1141(j)(a) or 7 U.S.C. § 291.

24 Sec. 6. Section 556.5, subsection 4, Code 2001, is amended
25 to read as follows:

26 4. At the time an interest is deemed abandoned under this
27 section, the following shall apply:

28 a. Except as provided in paragraph "b", any dividend,
29 distribution, or other sum then held for or owing to the owner
30 as a result of the interest, and not previously deemed
31 abandoned, is deemed abandoned.

32 b. A disbursement held by a cooperative association shall
33 not be deemed abandoned under this chapter if the disbursement
34 is retained by a cooperative association organized under
35 chapter 490 as provided in section 490.629 or by a cooperative

1 association organized under chapter 499 as provided in section
2 499.30A.

3 EXPLANATION

4 This bill provides for the reversion of disbursements,
5 including dividends and distributions such as earnings, by a
6 cooperative association organized under Code chapter 490 or
7 499.

8 Generally, property that is considered abandoned is turned
9 over to the treasurer of state. This includes any stock,
10 shareholding, or other intangible ownership interests in a
11 business association such as a corporation or cooperative
12 association (Code section 556.5). It also includes any
13 dividend or distribution (e.g., dividends from common stock,
14 patronage dividends, earnings, or other sum accruing from that
15 equity interest). For this type of property, abandonment
16 occurs within three years after the owner has not evidenced a
17 presence. Once property is abandoned it is delivered to the
18 treasurer of state for notice (Code sections 556.12). If
19 unclaimed after a year, the property is generally marketed if
20 necessary and the property or proceeds are forfeited to the
21 general fund of the state (Code sections 556.17 and 556.18).

22 This bill provides that a cooperative association organized
23 under Code chapter 490 or 499 may retain the disbursement.
24 The bill provides that once a person's membership or stock,
25 subscription, or other ownership interest in the cooperative
26 association is deemed abandoned under Code section 556.5, the
27 cooperative association may retain the disbursement held by
28 the cooperative association for or owing to the person. The
29 cooperative association may also deliver the disbursement to
30 the treasurer of state as abandoned property. The bill
31 provides that if the cooperative association elects to retain
32 the disbursement, it must deposit it into a reversion fund.

33 The bill allows a person claiming an interest in the
34 disbursement to file a claim with the cooperative association.
35 It provides that if the person is entitled to membership,

1 stock, subscription, or other ownership interest under Code
2 chapter 556, the person is also entitled to receive the
3 accrued disbursement. However, after one year following
4 deposit, an unclaimed disbursement is forfeited to the
5 cooperative association. The bill provides that the reversion
6 fund must be used for purposes related to education or
7 economic development.

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HOUSE FILE 564

S-3433

1 Amend House File 564, as passed by the House, as
2 follows:

3 1. Page 1, line 16, by inserting after the word
4 "disbursement" the following: "with a value of ten
5 dollars or less".

6 2. Page 2, line 6, by inserting after the word
7 "disbursement" the following: "with a value of ten
8 dollars or less".

By THOMAS FIEGEN

S-3433 FILED APRIL 23, 2001

LOST (P 1251)

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SENATE AMENDMENT TO HOUSE FILE 564

H-1652

1 Amend House File 564, as passed by the House, as
2 follows:

3 1. Page 2, line 9, by striking the word and
4 figure "section 556.5" and inserting the following:
5 "sections 556.5 and 556.11".

6 2. Page 2, by inserting after line 13, the
7 following:

8 "____. Any disbursement that is retained by the
9 cooperative association shall be forfeited to the
10 cooperative association if the cooperative association
11 publishes at least one notice of the abandoned
12 property in a publication regularly distributed to its
13 membership or in a newspaper having a general
14 circulation in the county where the cooperative
15 association is located. The notice shall include all
16 of the following:

17 a. The name and address of the cooperative
18 association.

19 b. The name of the person who has an interest in
20 the disbursement according to the records of the
21 cooperative association.

22 c. A brief description of the type of disbursement
23 retained by the cooperative association.

24 d. A statement that the disbursement will be
25 forfeited to the cooperative association unless the
26 person files a claim for the disbursement within the
27 period provided for in this section."

28 3. Page 2, by striking lines 25 through 29, and
29 inserting the following: "within six months after the
30 first date that the notice of abandoned property is
31 first published as provided in this section, the
32 disbursement shall be forfeited to the cooperative
33 association."

34 4. Page 2, line 30, by striking the word
35 "disbursement" and inserting the following:
36 "disbursements".

37 5. Page 2, line 31, by striking the word "is" and
38 inserting the following: "are".

39 6. Page 2, line 32, by inserting before the words
40 "the directors" the following: "provided in this
41 subsection. The cooperative association may authorize
42 the payment of forfeited disbursements to persons
43 claiming interests in forfeited disbursements as
44 provided in the cooperative association's articles of
45 incorporation or bylaws. Otherwise, forfeited
46 disbursements shall be used as".

47 7. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-1652 FILED APRIL 24, 2001

Adas
4-24-01
(P. 1619)

HOUSE FILE 564
FISCAL NOTE

A fiscal note for **House File 564** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 564 allows cooperatives organized under Chapter 490 and 499, Code of Iowa, to retain abandoned property, such as earnings distributions, in a reversion fund. The cooperative also has the option to deliver the abandoned property to the Treasurer of the State. This Bill specifies that a person may file claim to the abandoned property up to one year after the disbursement has been deposited into the cooperative association's reversion fund. After one year, the abandoned property is considered forfeited, and the cooperative may use the abandoned property to pay for educational and economic development programs.

ASSUMPTIONS

1. The estimated amount of abandoned property delivered to the Treasurer of State from cooperatives is between \$150,000 and \$250,000 per year.
2. The estimated amount of abandoned property that remains unclaimed and goes into the General Fund is between \$50,000 and \$100,000 per year.

FISCAL IMPACT

The estimated fiscal impact of House File 564 is a decrease of \$50,000 to \$100,000 to the General Fund per year.

SOURCES

Secretary of State
Treasurer of the State

(LSB 1945hv, DFK)

FILED MARCH 20, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR

S-3446

1 Amend House File 564, as passed by the House, as
2 follows:

3 1. Page 1, by inserting after line 31, the
4 following:

5 "Sec. ____ . Section 499.30, subsection 5, Code
6 2001, is amended to read as follows:

7 5. Notwithstanding an association's articles of
8 incorporation, for each taxable year of the
9 association, the association shall allocate all
10 remaining net earnings to the account of each member,
11 including subscribers described in section 499.16,
12 ratably in proportion to the business the member did
13 with the association during that year. The directors
14 shall determine, or the articles of incorporation or
15 bylaws of the association may specify, the percentage
16 or the amount of the allocation to be currently paid
17 in cash. However, ~~for~~ notwithstanding a cooperative
18 association's articles of incorporation or bylaws if a
19 cooperative association provides for the reversion of
20 disbursements pursuant to section 499.30A, the
21 cooperative association shall pay all dividends in
22 cash to the account of each member, upon a declaration
23 of a dividend by the board of directors. For a
24 cooperative association other than a public utility as
25 defined in section 476.1, the amount to be currently
26 payable in cash shall not exceed twenty percent of the
27 allocation during any period when unpaid local
28 deferred patronage dividends of deceased members for
29 prior years are outstanding. Notwithstanding the
30 twenty percent allocation limitation, the directors of
31 a cooperative association or the articles of
32 incorporation or bylaws of the association may specify
33 any percentage or amount to be currently paid in cash
34 to the estates of deceased natural persons who were
35 members. All the remaining allocation not paid in
36 cash shall be transferred to a revolving fund as
37 provided in section 499.33 and credited to the members
38 and subscribers. The credits in the revolving fund
39 are referred to in this chapter as deferred patronage
40 dividends."

41 2. By renumbering as necessary.

By THOMAS FIEGEN

S-3446 FILED APRIL 23, 2001

LOST

(P. 1251)

S-3421

1 Amend House File 564, as passed by the House, as
2 follows:

3 1. Page 2, line 9, by striking the word and
4 figure "section 556.5" and inserting the following:
5 "sections 556.5 and 556.11".

6 2. Page 2, by inserting after line 13, the
7 following:

8 "____. Any disbursement that is retained by the
9 cooperative association shall be forfeited to the
10 cooperative association if the cooperative association
11 publishes at least one notice of the abandoned
12 property in a publication regularly distributed to its
13 membership or in a newspaper having a general
14 circulation in the county where the cooperative
15 association is located. The notice shall include all
16 of the following:

17 a. The name and address of the cooperative
18 association.

19 b. The name of the person who has an interest in
20 the disbursement according to the records of the
21 cooperative association.

22 c. A brief description of the type of disbursement
23 retained by the cooperative association.

24 d. A statement that the disbursement will be
25 forfeited to the cooperative association unless the
26 person files a claim for the disbursement within the
27 period provided for in this section."

28 3. Page 2, by striking lines 25 through 29, and
29 inserting the following: "within six months after the
30 first date that the notice of abandoned property is
31 first published as provided in this section, the
32 disbursement shall be forfeited to the cooperative
33 association."

34 4. Page 2, line 30, by striking the word
35 "disbursement" and inserting the following:
36 "disbursements".

37 5. Page 2, line 31, by striking the word "is" and
38 inserting the following: "are".

39 6. Page 2, line 32, by inserting before the words
40 "the directors" the following: "provided in this
41 subsection. The cooperative association may authorize
42 the payment of forfeited disbursements to persons
43 claiming interests in forfeited disbursements as
44 provided in the cooperative association's articles of
45 incorporation or bylaws. Otherwise, forfeited
46 disbursements shall be used as".

47 7. By renumbering as necessary.

By EUGENE S. FRAISE
MARK ZIEMAN

S-3421 FILED APRIL 20, 2001

adopted
7/23/01

(p.1252)

HOUSE FILE 564

AN ACT
PROVIDING FOR THE REVERSION OF DIVIDENDS AND DISTRIBUTIONS BY
CERTAIN COOPERATIVE ASSOCIATIONS.

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

Section 1. Section 490.140, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. "Cooperative association" means an entity which is structured and operated on a cooperative basis pursuant to 26 U.S.C. § 1381(a) and which meets the definitional requirements of an association as provided in 12 U.S.C. § 1141(j)(a) or 7 U.S.C. § 291.

Sec. 2. NEW SECTION. 490.629 REVERSION OF DISBURSEMENTS TO COOPERATIVE ASSOCIATIONS.

1. As used in this section, "disbursement" means an amount of any distribution or any other increment or sum realized or accruing from stock or other equity interest in a cooperative association organized under this chapter.

2. Once a person's stock or other equity interest in a cooperative association organized under this chapter is deemed abandoned under section 556.5, any disbursement held by the cooperative association for or owing to the person shall be subject to the same requirements as provided in section 499.30A that applies to a cooperative association organized under chapter 499, including all of the following:

a. The retention of the disbursement in a reversion fund established by the cooperative association or the delivery of the disbursement to the treasurer of state.

b. The payment of the disbursement to a person filing a claim with the cooperative association who asserts an interest in the disbursement.

c. The forfeiture of the disbursement to the cooperative association, and the use of the forfeited disbursement by the cooperative association in order to teach and promote cooperation or provide for economic development, including creating economic opportunities for its shareholders.

Sec. 3. NEW SECTION. 499.30A REVERSION OF DISBURSEMENTS.

1. As used in this section, "disbursement" means an amount of any dividend, patronage dividend, distribution including earnings distribution, or any other increment or sum realized or accruing from a membership or stock, subscription, or other equity interest in a cooperative association.

2. Once a person's membership or stock, subscription, or other member's equity in a cooperative association is deemed abandoned under section 556.5, the cooperative association may retain any disbursement held by the cooperative association for or owing to the person. The cooperative association may also deliver the disbursement to the treasurer of state for disposition as abandoned property pursuant to sections 556.5 and 556.11.

3. If the cooperative association elects to retain the disbursement under this section, the disbursement shall be deposited into a reversion fund established by the cooperative association.

4. Any disbursement that is retained by the cooperative association shall be forfeited to the cooperative association if the cooperative association publishes at least one notice of the abandoned property in a publication regularly distributed to its membership or in a newspaper having a general circulation in the county where the cooperative association is located. The notice shall include all of the following:

a. The name and address of the cooperative association.

b. The name of the person who has an interest in the disbursement according to the records of the cooperative association.

c. A brief description of the type of disbursement retained by the cooperative association.

d. A statement that the disbursement will be forfeited to the cooperative association unless the person files a claim for the disbursement within the period provided for in this section.

5. a. Subject to this subsection, a person asserting an interest in the disbursement may file a claim for it with the cooperative association in a manner and according to procedures required by the cooperative association. If a person is entitled to an abandoned membership, stock, subscription, or other interest as provided in section 556.20 or 556.21, the cooperative association shall also pay the person the disbursement deposited in the reversion fund that is realized or accrued from the membership or stock, subscription, or other interest.

b. If a person has not filed a claim for the disbursement within six months after the first date that the notice of abandoned property is first published as provided in this section, the disbursement shall be forfeited to the cooperative association.

6. The disbursements deposited into the reversion fund that are forfeited to the cooperative association shall be used as provided in this subsection. The cooperative association may authorize the payment of forfeited disbursements to persons claiming interests in forfeited disbursements as provided in the cooperative association's articles of incorporation or bylaws. Otherwise, forfeited disbursements shall be used as the directors deem suitable for any of the following purposes:

a. Teaching and promoting cooperation. The directors may deposit the amounts of disbursements into the education fund as provided in section 499.30.

b. Economic development including private or joint public and private investments involving the creation of economic opportunities for its members or the retention of existing sources of income that would otherwise be lost.

Sec. 4. Section 556.1, subsection 2, Code 2001, is amended to read as follows:

2. "Business association" means a corporation, cooperative association, joint stock company, business trust, investment company, partnership, limited liability company, trust company, mutual fund, or other business entity consisting of one or more persons, whether or not for profit.

Sec. 5. Section 556.1, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. "Cooperative association" means an entity which is structured and operated on a cooperative basis, including an association of persons organized under chapter 497, 498, or 499; an entity composed of entities organized under those chapters; a cooperative corporation organized under chapter 501; a cooperative association organized under chapter 490; or any other entity recognized pursuant to 26 U.S.C. § 1381(a) which meets the definitional requirements of an association as provided in 12 U.S.C. § 1141(j)(a) or 7 U.S.C. § 291.

Sec. 6. Section 556.5, subsection 4, Code 2001, is amended to read as follows:

4. At the time an interest is deemed abandoned under this section, the following shall apply:

a. Except as provided in paragraph "b", any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously deemed abandoned, is deemed abandoned.

b. A disbursement held by a cooperative association shall not be deemed abandoned under this chapter if the disbursement is retained by a cooperative association organized under chapter 490 as provided in section 490.629 or by a cooperative

association organized under chapter 499 as provided in section 499.30A.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 564, Seventy-ninth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved May 16, 2001

THOMAS J. VILSACK
Governor