

House Study Bill 759

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON DRAKE)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing for the conversion of cooperative associations,
2 and providing for an effective date.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 6550HC 81
5 da/je/5

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1 1 Section 1. Section 499.43A, Code 2005, is amended to read
1 2 as follows:

1 3 499.43A EXISTING COOPERATIVES ORGANIZED UNDER CHAPTER 497
1 4 OR 498 == CONVERSION OPTION.

1 5 1. As used in this section, "cooperative association"
1 6 means any of the following:

1 7 a. An association organized under chapter 497, regardless
1 8 of whether it is referred to as an "association", "company",
1 9 "corporation", "exchange", "society", or "union" as provided
1 10 in that chapter.

1 11 b. A cooperative association organized under chapter 498,
1 12 regardless of whether it is referred to as an "association",
1 13 "exchange", "society", or "union" as provided in that chapter.

1 14 2. A cooperative association organized under chapter 498
1 15 may elect to be governed by and to comply with the provisions
1 16 of this chapter. The election shall be governed by the
1 17 following procedures:

1 18 ~~1-~~ a. The board of directors and members must adopt a
1 19 resolution reciting that the cooperative association elects to
1 20 be governed by and to comply with this chapter. The
1 21 cooperative association, to the extent necessary, shall change
1 22 its name to comply with the provisions of this chapter. The
1 23 resolution shall be adopted according to the same procedures
1 24 as provided in section 499.41. Upon the adoption of the
1 25 resolution, the cooperative association shall execute an
1 26 instrument on forms prescribed by the secretary of state. The
1 27 instrument must be signed by the president and secretary and
1 28 verified by one of the officers signing the instrument. The
1 29 instrument shall include all of the following:

1 30 ~~a-~~ (1) The name of the cooperative association, before
1 31 and after this election.

1 32 ~~b-~~ (2) A description of each resolution adopted by the
1 33 cooperative association pursuant to this section, including
1 34 the date each resolution was adopted.

1 35 ~~2-~~ b. The instrument shall be filed with the secretary of
2 1 state. The cooperative association shall amend its articles
2 2 of incorporation pursuant to section 499.41 to comply with the
2 3 provisions of this chapter. The secretary of state shall not
2 4 file the instrument unless the cooperative association
2 5 organized under chapter 497 is in compliance with the
2 6 provisions of chapter 497 at the time of filing. The
2 7 secretary of state shall not file the instrument unless the
2 8 cooperative association organized under chapter 498 is in
2 9 compliance with the provisions of chapter 498 at the time of
2 10 filing. A cooperative association shall file a biennial
2 11 report which is due pursuant to section 499.49.

2 12 3. Upon filing the instrument with the secretary as
2 13 required in this section, all of the following shall apply:

2 14 a. The cooperative association shall be deemed to be
2 15 organized under this chapter and the provisions of this
2 16 chapter shall apply to the cooperative association.

2 17 b. The secretary of state shall issue a certificate to the
2 18 cooperative association acknowledging that it is deemed to be

2 19 organized under this chapter.
2 20 ~~3- 4.~~ The application of this chapter to the cooperative
2 21 association does not affect any of the following:
2 22 a. For a cooperative association organized under chapter
2 23 497, a right accrued or established, or liability or penalty
2 24 incurred, pursuant to chapter 497 prior to the filing of the
2 25 instrument with the secretary of state as required in this
2 26 section.

2 27 b. For a cooperative association organized under chapter
2 28 498, a right accrued or established, or liability or penalty
2 29 incurred, pursuant to chapter 498, prior to the filing of the
2 30 instrument with the secretary of state as required in this
2 31 section.

2 32 Sec. 2. Section 499.43, Code 2005, is repealed.

2 33 Sec. 3. EFFECTIVE DATE. This Act, being deemed of
2 34 immediate importance, takes effect upon enactment.

2 35 EXPLANATION

3 1 Three types of traditional cooperative associations are
3 2 recognized under Iowa law and specifically under Code chapters
3 3 497, 498, and 499. Code chapter 499 is the most modern
3 4 chapter, enacted in 1935 (1935 Acts, ch. 94), and all
3 5 traditional cooperative associations formed on and after July
3 6 4, 1935, must be organized under that Code chapter (Code
3 7 section 499.1). It governs farmer cooperatives, petroleum
3 8 cooperatives, utility cooperatives, and consumer food
3 9 cooperatives (Code section 499.2). Code chapter 499 does not
3 10 require older cooperative associations to convert into a "499
3 11 cooperative" but does provide conversion procedures for a "497
3 12 cooperative" and a "498 cooperative".

3 13 Code section 499.43 enacted with the 1935 law provides that
3 14 any cooperative association, including a 497 cooperative or a
3 15 498 cooperative, could by a "majority vote of all its members"
3 16 convert to a 499 cooperative (1935 Acts, ch. 94, } 43). It
3 17 also provides rights for dissenting members to sell their
3 18 stock to the cooperative at its real value within two years
3 19 from the date of the vote.

3 20 In 1992, the general assembly enacted legislation which
3 21 limited the procedure in Code section 499.43 to the conversion
3 22 of 497 cooperatives and enacted new provisions in Code section
3 23 499.43A for the conversion of 498 cooperative associations.
3 24 That section provides for transitional procedures, including
3 25 for adopting and recording a resolution reciting the intention
3 26 of the cooperative association to be governed under Code
3 27 chapter 499 by a vote of 66 and two-thirds percent of the
3 28 members present or represented by mailed ballots. Code
3 29 section 499.43A does not provide for the right of dissenting
3 30 members to sell their stock back to the cooperative.

3 31 This section eliminates the conversion provisions for 497
3 32 cooperatives as provided in Code section 499.43 and requires
3 33 that 497 cooperatives convert to a 499 cooperative in the same
3 34 manner as 498 cooperatives.

3 35 The bill takes effect upon enactment.

4 1 LSB 6550HC 81

4 2 da:nh/je/5