

House File 440 - Introduced

HOUSE FILE 440

BY ISENHART

(COMPANION TO 1073SS BY JOCHUM)

A BILL FOR

- 1 An Act relating to the actions of certain nonprofit
- 2 corporations and horizontal property regimes and including
- 3 applicability provisions.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

3 2. If the form of administration is a board of
4 administration, board meetings must be open to all apartment
5 owners except for meetings between the board and its attorney
6 with respect to proposed or pending litigation where the
7 contents of the discussion would otherwise be governed by the
8 attorney-client privilege. Notice of each board meeting must
9 be mailed or delivered to each apartment owner at least seven
10 days before the meeting. Each notice shall contain the date,
11 time, place, and purpose of the meeting. Minutes of meetings
12 of the board of administration must be maintained in written
13 form or in another form that can be converted into written form
14 within a reasonable time. The official records of the board
15 of administration must be open to inspection and available for
16 photocopying at reasonable times and places, unless the record
17 or a portion of a record contains the personal information of
18 a co-owner and is deemed confidential upon unanimous vote of
19 the board of administration. Such confidential records shall,
20 however, be open to inspection and available for photocopying
21 if ordered by a court. Any action taken by a board of
22 administration at a meeting that is in violation of any of the
23 provisions of this subsection is not valid or enforceable. In
24 any judicial action, the board of administration shall have the
25 burden of proving that the requirements of this subsection have
26 been met.

27 Sec. 2. Section 504.823, Code 2011, is amended to read as
28 follows:

29 **504.823 Call and notice of meetings.**

30 1. Unless the articles or bylaws of a corporation, or
31 subsection 3 or 5, provide provides otherwise, regular meetings
32 of the board may be held without notice.

33 2. Unless the articles, bylaws, or subsection 3 or 5 provide
34 provides otherwise, special meetings of the board must be
35 preceded by at least two days' notice to each director of the

1 date, time, and place, but not the purpose, of the meeting.

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

9 4. Unless the articles or bylaws provide otherwise, the
10 presiding officer of the board, the president, or twenty
11 percent of the directors then in office may call and give
12 notice of a meeting of the board.

13 5. Notwithstanding any provision of this chapter to the
14 contrary, homeowners' association board meetings shall be open
15 to all members except for meetings between the board and its
16 attorney with respect to proposed or pending litigation where
17 the contents of the discussion would otherwise be governed
18 by the attorney-client privilege. Notice of each board
19 meeting shall be mailed or delivered to each member and to
20 each director at least seven days before the meeting. Each
21 notice shall contain the date, time, place, and purpose of the
22 meeting. Any action taken by a board at a meeting that is
23 in violation of this subsection is not valid or enforceable.
24 In any judicial action, the homeowners' association board
25 shall have the burden of proving that the requirements of this
26 subsection have been met. For purposes of this subsection,
27 "homeowners' association" means a corporation responsible for
28 the operation of an area of real property comprised of land and
29 buildings used primarily for human habitation, that consists of
30 parcel owners or their agents, and in which membership in the
31 corporation is a mandatory condition of parcel ownership.

32 Sec. 3. Section 504.1602, Code 2011, is amended by adding
33 the following new subsection:

34 NEW SUBSECTION. 7. Notwithstanding any provision of this
35 chapter to the contrary, a homeowners' association board, under

1 section 504.823, subsection 5, may refuse inspection or copying
2 of a record or a portion of a record relating to the personal
3 information of a member upon unanimous vote of the board,
4 unless otherwise ordered by a court.

5 Sec. 4. APPLICABILITY. This Act applies to homeowners'
6 association board meetings and horizontal property regime board
7 of administration meetings occurring on or after July 8, 2011.

8 EXPLANATION

9 This bill applies to horizontal property regimes
10 (condominiums) under Code chapter 499B and to homeowners'
11 associations organized under the revised Iowa nonprofit
12 corporation Act, Code chapter 504. The bill requires
13 homeowners' association board meetings to be open to all
14 members except for meetings between the board and its attorney
15 with respect to proposed or pending litigation where the
16 contents of the discussion would otherwise be governed by the
17 attorney-client privilege. The bill also requires notice of
18 each board meeting to be mailed or delivered to each member and
19 to each director at least seven days before the meeting. Each
20 notice must contain the date, time, place, and purpose of the
21 meeting. Any action taken by a board at a meeting that is in
22 violation of the bill is not valid or enforceable. The bill
23 defines "homeowners' association" as a corporation responsible
24 for the operation of an area of real property comprised
25 of land and buildings used primarily for human habitation,
26 that consists of parcel owners or their agents, and in which
27 membership in the corporation is a mandatory condition of
28 parcel ownership.

29 The bill provides that in a judicial action, the homeowners'
30 association board has the burden of proving that the
31 requirements relating to meetings and meeting notices have been
32 met.

33 The bill provides that a homeowners' association board may
34 refuse inspection or copying of a record or a portion of a
35 record relating to the personal information of a member upon

1 unanimous vote of the board, unless ordered by a court.

2 The bill also includes similar provisions for the contents
3 of meeting notices, burden of proof requirements, and record
4 inspection limitations for horizontal property regimes under
5 Code chapter 499B.

6 The bill applies to homeowners' association board meetings
7 and horizontal property regime board of administration meetings
8 occurring on or after July 8, 2011.