

House File 2113 - Introduced

HOUSE FILE 2113

BY SALMON

A BILL FOR

1 An Act relating to the operations and governance of certain
2 common interest communities.

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

DIVISION I

IOWA COMMON INTEREST OWNERSHIP ACT

Section 1. NEW SECTION. 499C.101 Title.

This chapter shall be known and cited as the "*Iowa Common Interest Ownership Act*".

Sec. 2. NEW SECTION. 499C.102 Public policy.

The general assembly declares that it is the public policy of the state that the management and affairs of common interest communities be conducted openly, and this chapter shall be construed to provide open access to the management of the common interest community for the unit owners.

Sec. 3. NEW SECTION. 499C.103 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Assessment*" means a sum attributable to each unit and due to the unit owners association as may be provided in a declaration or in the bylaws.

2. "*Bylaws*" means the instruments, however denominated, that contain the procedures for conducting the affairs of the unit owners association or the executive board regardless of the form in which the association is organized, including any amendments to such instruments.

3. "*Common element*" means:

a. For a cooperative under chapter 499A or a horizontal property regime under chapter 499B, all portions of the common interest community other than the units.

b. For a planned community, any real estate within the planned community which is owned or leased by the unit owners association, other than a unit.

c. For all common interest communities, any other interests in real estate identified in the declaration for the benefit of unit owners.

4. "*Common expenses*" means expenditures made by, or financial liabilities of, the unit owners association or the executive board, together with any allocations to reserves.

1 5. *a. "Common interest community"* means real estate
2 described in a declaration with respect to which a person,
3 by virtue of the person's ownership of a unit, is obligated
4 to pay for a share of real estate taxes, insurance premiums,
5 maintenance, or improvement of, or services or other expenses
6 related to, common elements, other units, or other real estate
7 described in the declaration. *"Common interest community"*
8 includes a cooperative under chapter 499A and a horizontal
9 property regime under chapter 499B.

10 *b.* Common interest community does not include:

11 (1) A covenant that requires the owners of separate parcels
12 of real estate to share costs or other obligations related to a
13 wall, driveway, well, or other similar structure, unless all
14 such owners consent in writing to the creation of a common
15 interest community.

16 (2) Real estate described in paragraph *"a"* if all units are
17 owned by a single owner.

18 6. *"Declarant"* means a person or group of persons who,
19 as the record title owner of real estate, by a declaration,
20 creates a common interest community.

21 7. *"Declaration"* means the instrument, however denominated,
22 that creates a common interest community, including any
23 amendments to the instrument.

24 8. *"Executive board"* means the body, regardless of name,
25 designated in the declaration or bylaws to act on behalf of the
26 unit owners association.

27 9. *"Planned community"* means a common interest community
28 that is not solely a cooperative under chapter 499A or
29 solely a horizontal property regime under chapter 499B, and
30 includes property owner or homeowner associations. However, a
31 cooperative under chapter 499A or a horizontal property regime
32 under chapter 499B may be part of a planned community.

33 10. *"Rule"* means a policy, guideline, restriction,
34 procedure, or regulation, however denominated, which is not set
35 forth in the declaration or bylaws.

1 11. "*Unit*" means a physical portion of the common interest
2 community designated for separate ownership or occupancy or
3 as otherwise defined in the statute under which the common
4 interest community is organized.

5 12. "*Unit owner*" means a declarant or other person that owns
6 a unit, but does not include a person having an interest in a
7 unit solely as security for an obligation. In a horizontal
8 property regime under chapter 499B or a planned community,
9 the declarant is the owner of a unit. In a cooperative under
10 chapter 499A, the declarant is the owner of any unit to
11 which an interest has been allocated until that unit has been
12 conveyed to another person.

13 13. "*Unit owners association*" means an association,
14 regardless of name, organized as a for-profit or nonprofit
15 corporation, trust, limited liability company, partnership,
16 unincorporated association, or any other form of organization
17 authorized by the laws of this state, the membership of
18 which consists solely of unit owners except following
19 termination of the common interest community, at which time the
20 association shall consist of all former unit owners entitled
21 to distributions of proceeds or their heirs, successors, or
22 assigns.

23 Sec. 4. NEW SECTION. **499C.104 Variation by agreement.**

24 Except as expressly provided in this chapter, the provisions
25 of this chapter may not be varied by agreement, and rights
26 conferred by it may not be waived.

27 Sec. 5. NEW SECTION. **499C.105 Applicability.**

28 Unless otherwise provided by law:

29 1. This chapter applies to common interest communities
30 within this state having eight or more units.

31 2. Any portion of a declaration, bylaws, covenant, or
32 other contractual provision existing prior to July 1, 2016,
33 that violates or is inconsistent with this chapter is not
34 enforceable. However, nothing in this chapter shall be
35 construed to invalidate other provisions of the declaration,

1 bylaws, covenant, or contractual provision of those common
2 interest communities established before July 1, 2016.

3 3. The provisions of this chapter shall prevail over any
4 conflicting provision of law under which a common interest
5 community or unit owners association is organized.

6 Sec. 6. NEW SECTION. 499C.201 Unit owners association —
7 powers and duties.

8 1. Except as otherwise provided in this chapter, a unit
9 owners association shall do all of the following:

10 a. Adopt bylaws and amend such bylaws.

11 b. Adopt budgets, collect assessments for common expenses
12 from unit owners, and invest funds of the association, if
13 applicable.

14 2. Unless otherwise limited by a declaration or bylaws, a
15 unit owners association shall have authority to do any of the
16 following:

17 a. Adopt and amend rules for operation of the unit owners
18 association.

19 b. Hire, employ, and discharge employees, agents, and
20 independent contractors.

21 c. Institute, defend, or intervene in litigation,
22 arbitration, mediation, or governmental administrative
23 proceedings on behalf of the unit owners association or for two
24 or more unit owners on matters affecting the common interest
25 community.

26 d. Make contracts and incur liabilities.

27 e. Regulate the use, maintenance, repair, replacement, and
28 modification of common elements.

29 f. Cause additional improvements to be made to the common
30 elements of the common interest community.

31 g. Acquire, hold, encumber, and convey any right, title, or
32 interest to real estate or personal property.

33 h. Grant easements, leases, licenses, and concessions
34 through or over the common elements of the common interest
35 community.

- 1 *i.* Impose and receive any payments, fees, or charges for the
2 use, rental, or operation of the common elements, other than
3 limited common elements as defined in section 499B.2, and for
4 services provided to unit owners.
- 5 *j.* Impose charges for late payment of assessments and,
6 after notice and an opportunity to be heard, impose reasonable
7 monetary penalties for violations of the declaration, bylaws,
8 and rules of the association.
- 9 *k.* Impose reasonable charges for the preparation and
10 recording of statements of unpaid assessments.
- 11 *l.* Provide for the indemnification of its officers and
12 executive board, including maintenance of liability insurance
13 for directors and officers of the unit owners association.
- 14 *m.* Assign its right to future income, including the right
15 to receive assessments.
- 16 *n.* Exercise powers conferred by the declaration or bylaws.
- 17 *o.* Exercise all other powers that may be exercised in this
18 state by organizations of the same type as the unit owners
19 association.
- 20 *p.* Suspend any right or privilege of a unit owner who fails
21 to pay an assessment. The unit owners association shall not,
22 however, deny a unit owner or other occupant access to the
23 owner's unit, suspend a unit owner's right to vote, prevent a
24 unit owner from seeking election as a director or officer of
25 the association, or withhold services provided to a unit or a
26 unit owner by the association if the effect of withholding the
27 service would be to endanger the health, safety, or property
28 of any person.
- 29 *q.* Exercise any other powers necessary and proper for the
30 governance and operation of the association.
- 31 3. If a tenant of a unit owner violates the declaration,
32 bylaws, or rules of the association, in addition to exercising
33 any of its powers against the unit owner, the association may
34 do any of the following:
- 35 *a.* Exercise the powers described in subsection 2, paragraph

1 "j", against the offending tenant.

2 b. After giving notice to the tenant and the unit owner
3 and providing each an opportunity to be heard, levy reasonable
4 monetary penalties against the tenant for the violation.

5 c. Take other action against the tenant for the violation in
6 the same manner as the unit owner, acting as landlord, could
7 have exercised under the lease or in the manner that the unit
8 owners association could lawfully have taken action directly
9 against the unit owner, or both. Action under this paragraph
10 may only be taken if the tenant or unit owner fails to remedy
11 the violation within ten days after notification by the unit
12 owners association of the violation.

13 4. Unless a lease of a unit otherwise provides, this section
14 does not do any of the following:

15 a. Affect rights that the unit owner possesses to enforce
16 the lease or that the unit owners association has under other
17 provisions of law.

18 b. In the absence of a violation of the declaration, bylaws,
19 or rules, authorize the unit owners association to enforce a
20 lease to which the unit owners association is not a party.

21 5. An executive board may determine whether to exercise
22 the association's power to impose sanctions or commence an
23 action for a violation of the declaration, bylaws, or rules,
24 including whether to settle any claim for unpaid assessments or
25 other claim made by or against the unit owners association. An
26 executive board does not have a duty to take enforcement action
27 if the executive board determines, following consideration of
28 the facts and circumstances presented, any of the following:

29 a. The association's legal position does not justify taking
30 any or further enforcement action.

31 b. The covenant, restriction, or rule being enforced is, or
32 is likely to be construed as, inconsistent with law.

33 c. Despite the existence of a violation, the violation is
34 nonmaterial and does not justify expenditure of the unit owners
35 association's resources.

1 *d.* It is not in the unit owners association's best interests
2 to pursue an enforcement action.

3 6. The failure of an executive board to take action pursuant
4 to subsection 5 shall not prevent the executive board from
5 taking enforcement action under a similar set of circumstances
6 or facts. The authority of an executive board to take action
7 under this chapter shall not, however, be exercised in an
8 arbitrary or capricious manner.

9 Sec. 7. NEW SECTION. **499C.202 Executive board.**

10 1. A unit owners association shall have an executive
11 board and, except as otherwise provided in the declaration,
12 the bylaws, subsection 2, or provisions of the statute under
13 which the common interest community is organized, an executive
14 board acts on behalf of the unit owners association. In
15 the performance of their duties, officers and members of the
16 executive board appointed by the declarant shall exercise the
17 degree of care and loyalty to the unit owners association
18 required of a trustee. Officers and members of an executive
19 board not appointed by the declarant shall exercise the degree
20 of care and loyalty to the unit owners association required
21 of an officer or director of a corporation organized under
22 chapter 504, and such officers and members are subject to the
23 conflict of interest rules governing directors and officers
24 under chapter 504.

25 2. An executive board shall not act on behalf of the unit
26 owners association to amend the declaration, to terminate the
27 common interest community, to elect members of the executive
28 board, or determine the qualifications, powers and duties, or
29 terms of office of executive board members. An executive board
30 may fill vacancies in its membership for the unexpired portion
31 of any term.

32 3. *a.* Subject to subsection 4, the declaration may
33 provide for a period of declarant control of the unit owners
34 association during which a declarant, or persons designated by
35 the declarant, may appoint and remove the officers and members

1 of the executive board. In no case, however, shall a period of
2 declarant control continue upon the occurrence of any of the
3 following:

4 (1) Sixty days after the conveyance of seventy-five percent
5 of all units in the common interest community to unit owners
6 other than a declarant.

7 (2) Two years after all declarants have ceased to offer
8 units for sale in the ordinary course of business.

9 (3) Two years after the addition of any number of new units
10 to the common interest community.

11 (4) The date the declarant, after giving written notice
12 to all unit owners, records an instrument voluntarily
13 surrendering all rights to control activities of the unit
14 owners association.

15 b. A declarant may voluntarily surrender the right to
16 appoint and remove officers and members of the executive board
17 before termination of the period under paragraph "a". However,
18 the declarant may retain, for the duration of the period of
19 declarant control, approval authority for specified actions of
20 the unit owners association or executive board, as described in
21 a recorded instrument executed by the declarant.

22 4. a. Not later than sixty days after conveyance of
23 twenty-five percent of the units to unit owners other than a
24 declarant, at least one member, and not less than twenty-five
25 percent of the members of the executive board, must be elected
26 by unit owners other than the declarant.

27 b. Not later than sixty days after conveyance of fifty
28 percent of the units to unit owners other than a declarant, not
29 less than one-third of the members of the executive board must
30 be elected by unit owners other than the declarant.

31 5. Following the termination of any period of declarant
32 control under this section, the unit owners shall elect an
33 executive board of at least three members, at least a majority
34 of whom must be unit owners. The executive board members shall
35 elect officers of the executive board. The executive board

1 members and officers shall take office upon election. This
2 subsection shall not apply to a common interest community if
3 all the units of the community are owned by one owner.

4 6. Notwithstanding any provision of the declaration or
5 bylaws to the contrary, the unit owners, by a two-thirds vote
6 of all persons present and entitled to vote at any meeting of
7 the unit owners at which a quorum is present, may remove any
8 member of the executive board with or without cause, other than
9 a member appointed by the declarant.

10 Sec. 8. NEW SECTION. **499C.401 Meetings.**

11 1. Meetings of a unit owners association shall comply with
12 all of the following:

13 a. A unit owners association shall hold a meeting of
14 unit owners annually at a time, date, and place stated in or
15 determined in accordance with the declaration or bylaws.

16 b. A unit owners association shall hold a special meeting
17 of unit owners to address any matter affecting the unit owners
18 association if the association's president, a majority of the
19 executive board, or a number of unit owners comprising at
20 least forty percent of all votes in the association, unless a
21 different percentage is specified in the bylaws, request that
22 the secretary call the meeting. If the unit owners association
23 does not notify unit owners of a special meeting within thirty
24 days after the required number of unit owners has requested the
25 secretary to call a special meeting, the requesting members may
26 directly notify all unit owners of the meeting. Only matters
27 described in the meeting notice may be considered at a special
28 meeting.

29 c. A unit owners association shall notify each unit owner
30 of the time, date, and place of each annual and special unit
31 owners meeting not less than ten days and not more than sixty
32 days before the meeting date. Each meeting notice shall state
33 the time, date, and place of the meeting and the items on the
34 agenda in a manner reasonably calculated to apprise the unit
35 owners of that information, including but not limited to:

1 (1) A statement of the general nature of any proposed
2 amendment to the declaration or bylaws.

3 (2) A statement describing any budget changes.

4 (3) Any proposal to remove an officer or member of the
5 executive board.

6 d. The requirements relating to the timing of meeting
7 notices under paragraph "c" may be reduced or waived for a
8 meeting called to address an emergency. A meeting called to
9 address an emergency shall be limited to matters arising out
10 of the emergency.

11 e. Each unit owner shall be given a reasonable opportunity
12 at any meeting to comment on any matter affecting the common
13 interest community or the unit owners association or only on
14 the emergency being addressed, if applicable.

15 f. The declaration or bylaws may allow for meetings of
16 unit owners to be conducted by telephonic, video, or other
17 conferencing methods, if such methods are consistent with
18 subsection 2, paragraph "g".

19 2. Meetings of the executive board and meetings of
20 committees of the unit owners association, authorized to act
21 for the unit owners association, shall comply with all of the
22 following:

23 a. Meetings shall be open to the unit owners except during
24 executive sessions. The executive board and committees of the
25 unit owners association authorized to act for the association
26 may hold an executive session only during a regular or special
27 meeting of the board or the committee. No final vote or final
28 action may be taken during an executive session. An executive
29 session may only be held for the following reasons:

30 (1) To consult with the unit owners association's attorney
31 concerning legal matters governed by attorney-client privilege.

32 (2) To discuss existing or potential litigation or
33 mediation, arbitration, or governmental administrative
34 proceedings.

35 (3) To discuss matters relating to the job performance,

1 compensation, or health records of an individual employee or
2 specific complaints against an individual employee of the
3 unit owners association or against an independent contractor
4 retained by the unit owners association.

5 (4) To discuss contracts, leases, and other commercial
6 transactions for goods or services that are under negotiation,
7 including the review of bids or proposals, if public disclosure
8 of such matters would place the unit owners association at a
9 disadvantage.

10 (5) To discuss personal, health, or financial information
11 relating to a unit owner, a specific employee of the unit
12 owners association, or a specific employee of an independent
13 contractor retained by the unit owners association, including
14 any records of the unit owners association relating to such
15 information.

16 *b.* Executive board members shall not use incidental or
17 social gatherings of board members or any other method to
18 evade the meeting and notice requirements of this section.
19 For purposes of this section, a gathering of board members at
20 which the board members do not conduct unit owners association
21 business is not a meeting of the executive board.

22 *c.* During a period of declarant control, the executive board
23 shall meet at least one time each year. At least one of the
24 meetings shall be held at the common interest community or at
25 a place convenient to the unit owners of the common interest
26 community. After termination of the period of declarant
27 control, all executive board meetings shall be held at the
28 common interest community or at a place convenient to the unit
29 owners of the common interest community unless the unit owners
30 amend the bylaws to vary the location of such meetings.

31 *d.* Unless the meeting is called to address an emergency,
32 at each executive board meeting, the executive board shall
33 provide a reasonable opportunity for unit owners to comment on
34 any matter affecting the common interest community and the unit
35 owners association.

1 *e.* Unless the meeting is included in a schedule given to the
2 unit owners or the meeting is called to address an emergency,
3 the secretary or other officer specified in the bylaws shall
4 give notice of each executive board meeting to each executive
5 board member and to each unit owner. Such notice shall be
6 given at least ten days before the meeting and shall state the
7 time, date, place, and agenda of the meeting.

8 *f.* If any materials are distributed to the executive board
9 before a meeting, the executive board, upon receipt of the
10 materials, shall make copies reasonably available to unit
11 owners, except that the executive board is not required to make
12 available copies of unapproved minutes or materials that are to
13 be considered during an executive session.

14 *g.* Unless otherwise provided in the declaration or bylaws,
15 the executive board may conduct a meeting by telephonic,
16 video, or other conferencing methods if all of the following
17 conditions are met:

18 (1) The meeting notice states the conferencing method to
19 be used and provides information explaining how unit owners
20 may participate in the conference directly or by meeting at a
21 central location or conference connection.

22 (2) The process provides all unit owners the opportunity
23 to hear or perceive the discussion and to comment on matters
24 before the executive board.

25 *h.* Following termination of the period of declarant control,
26 unit owners may amend the bylaws to vary the procedures for
27 meetings described in paragraph "*g*".

28 *i.* In lieu of a meeting, the executive board may act by
29 unanimous consent if such action is documented in a record
30 authenticated by all executive board members. The secretary
31 shall give prompt notice to all unit owners of any action
32 taken by unanimous consent. After termination of the period
33 of declarant control, an executive board may act by unanimous
34 consent only to undertake ministerial actions or to implement
35 actions previously taken at a meeting of the executive board.

1 *j.* Unless otherwise restricted by this chapter or the common
2 interest community's bylaws, an executive board may determine
3 rules of procedure for the executive board.

4 *k.* An executive board may remove any person from a meeting
5 of the executive board upon a finding by a majority of the
6 board members that the person is being disruptive to the
7 meeting. An executive board may bar any person from meetings
8 of the executive board or other meetings of the common interest
9 community for a period of up to one year if the person has
10 been twice removed from a meeting within the preceding twelve
11 months.

12 *l.* An action by an executive board that is not in compliance
13 with this section is valid unless invalidated by a court. A
14 challenge to the validity of an action of the executive board
15 for failure to comply with this section shall not be brought
16 more than sixty days after the minutes of the executive board
17 meeting at which the action was taken are approved or the
18 record of that action is distributed to unit owners, whichever
19 is later.

20 Sec. 9. NEW SECTION. **499C.402 Association records.**

21 1. A unit owners association shall retain all of the
22 following:

23 *a.* Detailed records of receipts and expenditures relating to
24 the operation and administration of the unit owners association
25 and other appropriate accounting records.

26 *b.* Minutes of all unit owners meetings and executive board
27 meetings, a record of all actions taken by the unit owners or
28 the executive board without a meeting, and a record of all
29 actions taken by a committee in place of the executive board on
30 behalf of the unit owners association. The minutes retained
31 by the unit owners association shall indicate the date, time,
32 and place of the meeting, the names of all persons present
33 at the meeting, and each action taken at the meeting. The
34 minutes shall also include the results of each vote taken at
35 the meeting, including information indicating the vote of each

1 executive board member present at the meeting. The vote of
2 each executive board member present shall be made public at the
3 open session.

4 *c.* The names of all unit owners in a form that permits
5 preparation of a list of the names of all owners and the
6 regular mail and electronic mail addresses at which the unit
7 owners association communicates with them, and the number of
8 votes each unit owner is entitled to cast.

9 *d.* The unit owners association's original and amended
10 organizational documents, bylaws including all amendments to
11 the bylaws, and all rules of the common interest community
12 currently in effect.

13 *e.* All financial statements and tax returns of the unit
14 owners association for the past three years.

15 *f.* A list of the names and addresses of the current
16 executive board members and officers.

17 *g.* The unit owners association's most recent annual report
18 delivered to the secretary of state, if applicable.

19 *h.* Copies of each contract to which the unit owners
20 association is currently a party.

21 *i.* Records of executive board or committee actions relating
22 to requests for design or architectural approval from unit
23 owners.

24 *j.* Ballots, proxies, and other records related to voting by
25 unit owners for one year after the election, action, or vote.

26 2. Except as provided under subsections 3 and 4, all records
27 retained by a unit owners association must be available for
28 examination and copying by a unit owner or the unit owner's
29 authorized agent during reasonable business hours or at a
30 mutually convenient time and location upon providing a five
31 days' notice that reasonably identifies the specific records
32 that are being requested.

33 3. Records retained by a unit owners association may be
34 withheld from inspection and copying to the extent that they
35 concern:

1 *a.* Personally identifiable information, salary, and medical
2 records relating to specific individuals.

3 *b.* Information relating to contracts, leases, and other
4 commercial transactions to purchase or provide goods or
5 services, that are currently under negotiation.

6 *c.* Information relating to existing or potential litigation,
7 mediation, arbitration, or governmental administrative
8 proceedings.

9 *d.* Information relating to existing or potential matters
10 involving governmental administrative proceedings or other
11 proceedings before a government tribunal for enforcement of the
12 declaration, bylaws, or rules.

13 *e.* Communications with the unit owners association attorney
14 which are otherwise protected by the attorney-client privilege
15 or the attorney work-product doctrine.

16 *f.* Information that if disclosed would violate another
17 provision of law.

18 *g.* Records of an executive session of the executive board.
19 However, upon the completion of a matter that is the subject of
20 an executive session held under section 499C.401, subsection
21 2, paragraph "a", subparagraphs (1) through (4), such records
22 of the executive session shall be available for inspection as
23 provided in this section.

24 *h.* Records directly related to the personal, health, or
25 financial information of a unit owner, if the person requesting
26 the records is not the unit owner that is the subject of the
27 records.

28 4. A unit owners association may charge a reasonable fee
29 for providing copies of any records under this section and for
30 supervising the inspection of such records.

31 5. The right to inspect records under this section includes
32 the right to copy records by photocopying or other means and
33 includes the right to receive copies through an electronic
34 transmission, if available, upon request of the requester.

35 6. A unit owners association is not obligated to compile or

1 synthesize information or records under this section.

2 7. Information or records obtained under this section shall
3 not be used for commercial purposes.

4 Sec. 10. NEW SECTION. **499C.403 Notice to unit owners.**

5 1. A unit owners association or an executive board, as
6 applicable, shall deliver each notice required to be given by
7 the association or board under this chapter to the regular mail
8 address or electronic mail address provided by each unit owner.
9 If a regular mail address or electronic mail address is not
10 provided by the unit owner, the notice may be delivered using
11 any of the following methods:

12 a. Hand delivery to the unit owner.

13 b. Mailing by certified mail, as defined in section 618.15,
14 or by regular mail to the address of the unit.

15 c. Any other method reasonably calculated to provide notice
16 to the unit owner.

17 2. The ineffectiveness of a good-faith effort to deliver
18 notice under subsection 1 does not invalidate an action taken
19 at a meeting or an action taken by other means.

20 Sec. 11. NEW SECTION. **499C.501 Cause of action — attorney**
21 **fees.**

22 A declarant, unit owners association, unit owner, or any
23 other person subject to this chapter may bring an action to
24 enforce a right granted or obligation imposed by this chapter,
25 the declaration, or the bylaws. In any action under this
26 chapter, the court may award reasonable attorney fees to the
27 prevailing party.

28 DIVISION II

29 CORRESPONDING CHANGES

30 Sec. 12. NEW SECTION. **499A.201 Applicability.**

31 This chapter shall apply to cooperatives established under
32 this chapter unless otherwise provided in chapter 499C.

33 Sec. 13. NEW SECTION. **499B.1A Applicability.**

34 This chapter applies to horizontal property regimes
35 established under this chapter unless otherwise provided in

1 chapter 499C.

2 Sec. 14. Section 499B.15, subsection 2, Code 2016, is
3 amended by striking the subsection.

4 Sec. 15. NEW SECTION. **499B.22 Board of administration —**
5 **meetings and records.**

6 1. For horizontal property regimes with eight or more
7 apartments, if the form of administration is a board of
8 administration, the board of administration shall comply with
9 the requirements of chapter 499C.

10 2. For horizontal property regimes with seven or less
11 apartments, if the form of administration is a board of
12 administration, the board of administration shall comply
13 with the requirements of section 499C.401, subsection 2, and
14 sections 499C.402 and 499C.403.

15 EXPLANATION

16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 Division I of this bill creates an Iowa common interest
19 ownership Act, new Code chapter 499C. The bill provides that
20 it is the public policy of the state that the management and
21 affairs of common interest communities be conducted openly and
22 that the new Code chapter is to be construed to provide open
23 access to the management of the common interest community for
24 the unit owners.

25 New Code chapter 499C defines "common interest community"
26 to mean real estate described in a declaration with respect
27 to which a person, by virtue of the person's ownership of a
28 unit, is obligated to pay for a share of real estate taxes,
29 insurance premiums, maintenance, or improvement of, or services
30 or other expenses related to, common elements, other units, or
31 other real estate described in the declaration. Cooperatives
32 under Code chapter 499A and horizontal property regimes under
33 Code chapter 499B are also defined to be common interest
34 communities. The bill specifies that a common interest
35 community does not include a covenant that requires the owners

1 of separate parcels of real estate to share certain costs or
2 other obligations, unless all such owners consent in writing
3 to the creation of a common interest community, and does not
4 include a community where all units are owned by a single
5 owner.

6 The bill does not allow for the provisions of new Code
7 chapter 499C to be varied by agreement, and rights conferred by
8 new Code chapter 499C may not be waived.

9 The bill specifies that unless otherwise provided by law new
10 Code chapter 499C applies to all common interest communities
11 established within this state having eight or more units.
12 However, the bill provides that for horizontal property regimes
13 with seven or fewer apartments, if the form of administration
14 is a board of administration, the board of administration must
15 comply with specified requirements of new Code chapter 499C
16 regarding meetings, records, and notice.

17 The bill establishes requirements and procedures for common
18 interest communities, unit owners associations, and executive
19 boards.

20 The bill provides that the membership of a unit owners
21 association shall at all times consist exclusively of all unit
22 owners except following termination of the common interest
23 community, at which time the unit owners association shall
24 consist of all former unit owners entitled to distributions
25 of proceeds or their heirs, successors, or assigns. The bill
26 requires each unit owners association to have an executive
27 board. A unit owners association must be organized as a
28 for-profit or nonprofit corporation, trust, limited liability
29 company, partnership, unincorporated association, or any
30 other form of organization authorized by the laws of this
31 state. The bill provides that the requirements of new Code
32 chapter 499C relating to a unit owners association preempt
33 any conflicting provision of the statute under which the unit
34 owners association is organized.

35 The bill specifies the duties and powers of a unit owners

1 association, including powers of the unit owners association
2 for enforcement of the provisions of declaration, bylaws, or
3 rules.

4 The bill specifies the duties and powers of an executive
5 board. An executive board, except as otherwise provided in the
6 declaration, the bylaws, or other provision of law, acts on
7 behalf of the unit owners association. The bill specifies the
8 duty of care required for members and officers of the executive
9 board.

10 The bill establishes requirements relating to meetings of
11 unit owners associations, executive boards, and committees
12 of such entities including requirements for the contents
13 of meeting notices, allowable actions during meetings,
14 requirements relating to unit owner comments, and the manner
15 in which meetings may be conducted. The bill also specifies
16 the manner and the reasons for which certain meetings may be
17 called.

18 The bill enacts requirements relating to the retention of
19 records by unit owners associations and specifies the records
20 retained by a unit owners association which may be withheld
21 from inspection and copying.

22 The bill requires a unit owners association or executive
23 board, as applicable, to deliver each notice required to be
24 given by the association under new Code chapter 499C to the
25 regular mail address or electronic mail address provided by
26 each unit owner. If a regular mail or electronic mail address
27 is not provided by the unit owner, the unit owners association
28 may deliver the notice by a different method specified in
29 the bill. The bill provides that the ineffectiveness of a
30 good-faith effort to deliver notice does not invalidate an
31 action taken at a meeting or an action taken by other means.

32 The bill provides that a declarant, unit owners association,
33 unit owner, or any other person subject to new Code chapter
34 499C may bring an action to enforce a right granted or
35 obligation imposed by the Code chapter, the declaration, or the

1 bylaws. In any such action, the court may award reasonable
2 attorney fees to the prevailing party.

3 Division II of the bill makes corresponding changes relating
4 to the enactment of new Code chapter 499C.