

Senate Study Bill 3066 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

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:

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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 portion of the common interest community
2 designated for separate ownership or occupancy or as otherwise
3 defined in the statute under which the common interest
4 community is organized, including but not limited to an
5 apartment as defined in section 499B.2.

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

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

24 Sec. 4. NEW SECTION. 499C.104 Variation by agreement.

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

28 Sec. 5. NEW SECTION. 499C.105 Applicability.

29 Unless otherwise provided by law:

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

32 2. Any portion of a declaration, bylaws, covenant, or
33 other contractual provision existing prior to July 1, 2018,
34 that violates or is inconsistent with this chapter is not
35 enforceable. However, nothing in this chapter shall be

1 construed to invalidate other provisions of the declaration,
2 bylaws, covenant, or contractual provision of those common
3 interest communities established before July 1, 2018.

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

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

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

11 a. Adopt bylaws and amend such bylaws.

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

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

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

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

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

27 d. Make contracts and incur liabilities.

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

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

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

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

1 community.

2 *i.* Impose and receive any payments, fees, or charges for the
3 use, rental, or operation of the common elements, other than
4 limited common elements as defined in section 499B.2, and for
5 services provided to unit owners.

6 *j.* Impose charges for late payment of assessments and,
7 after notice and an opportunity to be heard, impose reasonable
8 monetary penalties for violations of the declaration, bylaws,
9 and rules of the association. However, such penalties shall
10 not be imposed to accrue each day that the violation is not
11 remedied. Unpaid penalties are subject to collection action
12 or attachment of a lien, but unpaid penalties shall not be
13 collected by means of foreclosure on the unit.

14 *k.* Impose reasonable charges for the preparation and
15 recording of statements of unpaid assessments.

16 *l.* Provide for the indemnification of its officers and
17 executive board, including maintenance of liability insurance
18 for directors and officers of the unit owners association.

19 *m.* Assign its right to future income, including the right
20 to receive assessments.

21 *n.* Exercise powers conferred by the declaration or bylaws.

22 *o.* Exercise all other powers that may be exercised in this
23 state by organizations of the same type as the unit owners
24 association.

25 *p.* Suspend any right or privilege of a unit owner who fails
26 to pay an assessment. The unit owners association shall not,
27 however, deny a unit owner or other occupant access to the
28 owner's unit, suspend a unit owner's right to vote, prevent a
29 unit owner from seeking election as a director or officer of
30 the association, or withhold services provided to a unit or a
31 unit owner by the association if the effect of withholding the
32 service would be to endanger the health, safety, or property
33 of any person.

34 *q.* Exercise any other powers necessary and proper for the
35 governance and operation of the association.

1 3. If a tenant of a unit owner violates the declaration,
2 bylaws, or rules of the association, in addition to exercising
3 any of its powers against the unit owner, the association may
4 do any of the following:

5 a. After giving notice to the tenant and the unit owner and
6 providing each an opportunity to be heard, exercise the powers
7 described in subsection 2, paragraph "j", against the offending
8 tenant.

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

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

19 a. Affect rights that the unit owner possesses to enforce
20 the lease or that the unit owners association has under other
21 provisions of law.

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

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

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

35 b. The covenant, restriction, or rule being enforced is, or

1 is likely to be construed as, inconsistent with law.

2 *c.* Despite the existence of a violation, the violation is
3 nonmaterial and does not justify expenditure of the unit owners
4 association's resources.

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

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

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

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

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

1 3. *a.* Subject to subsection 4, the declaration may
2 provide for a period of declarant control of the unit owners
3 association during which a declarant, or persons designated by
4 the declarant, may appoint and remove the officers and members
5 of the executive board. In no case, however, shall a period of
6 declarant control continue upon the occurrence of any of the
7 following:

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

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

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

15 (4) The date the declarant, after giving written notice
16 to all unit owners, records an instrument voluntarily
17 surrendering all rights to control activities of the unit
18 owners association.

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

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

31 *b.* Not later than sixty days after conveyance of fifty
32 percent of the units to unit owners other than a declarant, not
33 less than one-third of the members of the executive board must
34 be elected by unit owners other than the declarant.

35 5. Following the termination of any period of declarant

1 control under this section, the unit owners shall elect an
2 executive board of at least three members, at least a majority
3 of whom must be unit owners. The executive board members shall
4 elect officers of the executive board. The executive board
5 members and officers shall take office upon election. This
6 subsection shall not apply to a common interest community if
7 all the units of the community are owned by one owner.

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

14 Sec. 8. NEW SECTION. 499C.401 Meetings.

15 1. Meetings of a unit owners association shall comply with
16 all of the following:

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

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

33 c. A unit owners association shall notify each unit owner
34 of the time, date, and place of each annual and special unit
35 owners meeting not less than ten days and not more than sixty

1 days before the meeting date. Each meeting notice shall state
2 the time, date, and place of the meeting and the items on the
3 agenda in a manner reasonably calculated to apprise the unit
4 owners of that information, including but not limited to:

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

7 (2) A statement describing any budget changes.

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

10 *d.* The requirements relating to the timing of meeting
11 notices under paragraph "*c*" may be reduced or waived for a
12 meeting called to address an emergency. A meeting called to
13 address an emergency shall be limited to matters arising out
14 of the emergency.

15 *e.* Each unit owner shall be given a reasonable opportunity
16 at any meeting to comment on any matter affecting the common
17 interest community or the unit owners association or only on
18 the emergency being addressed, if applicable.

19 *f.* The declaration or bylaws may allow for meetings of
20 unit owners to be conducted by telephonic, video, or other
21 conferencing methods, if such methods are consistent with
22 subsection 2, paragraph "*g*".

23 2. Meetings of the executive board and meetings of
24 committees of the unit owners association, authorized to act
25 for the unit owners association, shall comply with all of the
26 following:

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

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

1 (2) To discuss existing or potential litigation or
2 mediation, arbitration, or governmental administrative
3 proceedings.

4 (3) To discuss matters relating to the job performance,
5 compensation, or health records of an individual employee or
6 specific complaints against an individual employee of the
7 unit owners association or against an independent contractor
8 retained by the unit owners association.

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

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

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

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

35 *d.* Unless the meeting is called to address an emergency,

1 at each executive board meeting, the executive board shall
2 provide a reasonable opportunity for unit owners to comment on
3 any matter affecting the common interest community and the unit
4 owners association.

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

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

18 g. Unless otherwise provided in the declaration or bylaws,
19 the executive board may conduct a meeting by telephonic,
20 video, or other conferencing methods if all of the following
21 conditions are met:

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

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

29 h. Following termination of the period of declarant control,
30 unit owners may amend the bylaws to vary the procedures for
31 meetings described in paragraph "g".

32 i. In lieu of a meeting, the executive board may act by
33 unanimous consent if such action is documented in a record
34 authenticated by all executive board members. The secretary
35 shall give prompt notice to all unit owners of any action

1 taken by unanimous consent. After termination of the period
2 of declarant control, an executive board may act by unanimous
3 consent only to undertake ministerial actions or to implement
4 actions previously taken at a meeting of the executive board.

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

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

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

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

25 1. A unit owners association shall retain all of the
26 following:

27 *a.* Detailed records of receipts and expenditures relating to
28 the operation and administration of the unit owners association
29 and other appropriate accounting records.

30 *b.* Minutes of all unit owners meetings and executive board
31 meetings, a record of all actions taken by the unit owners or
32 the executive board without a meeting, and a record of all
33 actions taken by a committee in place of the executive board on
34 behalf of the unit owners association. The minutes retained
35 by the unit owners association shall indicate the date, time,

1 and place of the meeting, the names of all persons present
2 at the meeting, and each action taken at the meeting. The
3 minutes shall also include the results of each vote taken at
4 the meeting, including information indicating the vote of each
5 executive board member present at the meeting. The vote of
6 each executive board member present shall be made public at the
7 open session.

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

13 *d.* The unit owners association's original and amended
14 organizational documents, bylaws including all amendments to
15 the bylaws, and all rules of the common interest community
16 currently in effect.

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

19 *f.* A list of the names and addresses of the current
20 executive board members and officers.

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

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

25 *i.* Records of executive board or committee actions relating
26 to requests for design or architectural approval from unit
27 owners.

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

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

1 that are being requested.

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

5 a. Personally identifiable information, salary, and medical
6 records relating to specific individuals.

7 b. Information relating to contracts, leases, and other
8 commercial transactions that are currently under negotiation to
9 purchase or provide goods or services.

10 c. Information relating to existing or potential litigation,
11 mediation, arbitration, or governmental administrative
12 proceedings.

13 d. Information relating to existing or potential matters
14 involving governmental administrative proceedings or other
15 proceedings before a government tribunal for enforcement of the
16 declaration, bylaws, or rules.

17 e. Communications with the unit owners association attorney
18 which are otherwise protected by the attorney-client privilege
19 or the attorney work-product doctrine.

20 f. Information that if disclosed would violate another
21 provision of law.

22 g. Records of an executive session of the executive board.
23 However, upon the completion of a matter that is the subject of
24 an executive session held under section 499C.401, subsection
25 2, paragraph "a", subparagraphs (1) through (4), such records
26 of the executive session shall be available for inspection as
27 provided in this section.

28 h. Records directly related to the personal, health, or
29 financial information of a unit owner if the person requesting
30 the records is not the unit owner that is the subject of the
31 records.

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

35 5. The right to inspect records under this section includes

1 the right to copy records by photocopying or other means and
2 includes the right to receive copies through an electronic
3 transmission, if available, upon request of the requester.

4 6. A unit owners association is not obligated to compile or
5 synthesize information or records under this section.

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

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

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

16 a. Hand delivery to the unit owner.

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

19 c. Any other method reasonably calculated to provide notice
20 to the unit owner.

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

24 Sec. 11. NEW SECTION. **499C.501 Cause of action — attorney**
25 **fees.**

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

32 DIVISION II

33 CORRESPONDING CHANGES

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

35 This chapter shall apply to cooperatives established under

1 this chapter unless otherwise provided in chapter 499C.

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

3 This chapter applies to horizontal property regimes
4 established under this chapter unless otherwise provided in
5 chapter 499C.

6 Sec. 14. Section 499B.15, subsection 2, Code 2018, is
7 amended by striking the subsection.

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

10 1. For horizontal property regimes with eight or more
11 apartments, if the form of administration is a board of
12 administration, the board of administration shall comply with
13 the requirements of chapter 499C.

14 2. For horizontal property regimes with seven or fewer
15 apartments, if the form of administration is a board of
16 administration, the board of administration shall comply
17 with the requirements of section 499C.401, subsection 2, and
18 sections 499C.402 and 499C.403.

19 EXPLANATION

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

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

29 New Code chapter 499C defines "common interest community"
30 to mean real estate described in a declaration with respect
31 to which a person, by virtue of the person's ownership of a
32 unit, is obligated to pay for a share of real estate taxes,
33 insurance premiums, maintenance, or improvement of, or services
34 or other expenses related to, common elements, other units, or
35 other real estate described in the declaration. Cooperatives

1 under Code chapter 499A and horizontal property regimes under
2 Code chapter 499B are also defined to be common interest
3 communities. The bill specifies that a common interest
4 community does not include a covenant that requires the owners
5 of separate parcels of real estate to share certain costs or
6 other obligations, unless all such owners consent in writing
7 to the creation of a common interest community, and does not
8 include a community where all units are owned by a single
9 owner.

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

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

21 The bill establishes requirements and procedures for common
22 interest communities, unit owners associations, and executive
23 boards.

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

1 chapter 499C relating to a unit owners association preempt
2 any conflicting provision of the statute under which the unit
3 owners association is organized.

4 The bill specifies the duties and powers of a unit owners
5 association, including powers of the unit owners association
6 for enforcement of the provisions of declaration, bylaws, or
7 rules.

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

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

22 The bill enacts requirements relating to the retention of
23 records by unit owners associations and specifies the records
24 retained by a unit owners association which may be withheld
25 from inspection and copying.

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

1 The bill provides that a declarant, unit owners association,
2 unit owner, or any other person subject to new Code chapter
3 499C may bring an action to enforce a right granted or
4 obligation imposed by the Code chapter, the declaration, or the
5 bylaws. In any such action, the court may award reasonable
6 attorney fees to the prevailing party.

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