

Senate File 44 - Introduced

SENATE FILE 44
BY GREEN

A BILL FOR

1 An Act relating to access to unit owners associations'
2 financial information and meeting minutes.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 499C.1 Definitions.

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

4 1. "Bylaws" means the instruments, however denominated, that
5 contain the procedures for conducting the affairs of a unit
6 owners association or an executive board regardless of the form
7 in which the association is organized, including any amendments
8 to such instruments.

9 2. "Common element" means:

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

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

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

19 3. a. "Common interest community" means real estate
20 described in a declaration with respect to which a person,
21 by virtue of the person's ownership of a unit, is obligated
22 to pay for a share of real estate taxes, insurance premiums,
23 maintenance, or improvement of, or services or other expenses
24 related to, common elements, other units, or other real estate
25 described in the declaration. "Common interest community"
26 includes a planned community, a cooperative under chapter 499A,
27 and a horizontal property regime under chapter 499B.

28 b. "Common interest community" does not include:

29 (1) A covenant that requires the owners of separate parcels
30 of real estate to share costs or other obligations related to a
31 wall, driveway, well, or other similar structure, unless all
32 such owners consent in writing to the creation of a common
33 interest community.

34 (2) Real estate described in paragraph "a" if all units are
35 owned by a single owner.

1 4. "*Declarant*" means a person or group of persons who,
2 as the record title owner of real estate, by a declaration,
3 creates a common interest community.

4 5. "*Declaration*" means the instrument, however denominated,
5 that creates a common interest community, including any
6 amendments to the instrument.

7 6. "*Executive board*" means the body, regardless of name,
8 designated in the declaration or bylaws to act on behalf of a
9 unit owners association.

10 7. "*Planned community*" means a common interest community
11 that is not solely a cooperative under chapter 499A or solely
12 a horizontal property regime under chapter 499B, and includes
13 property owner or homeowner associations. A cooperative under
14 chapter 499A or a horizontal property regime under chapter
15 499B, however, may be part of a planned community.

16 8. "*Rule*" means a policy, guideline, restriction, procedure,
17 or regulation, however denominated, which is not set forth in
18 the declaration or bylaws.

19 9. "*Unit*" means a portion of a common interest community
20 designated for separate ownership or occupancy or as otherwise
21 defined in the statute under which the common interest
22 community is organized, including but not limited to an
23 apartment as defined in section 499B.2.

24 10. "*Unit owner*" means a declarant or other person that owns
25 a unit, but does not include a person having an interest in a
26 unit solely as security for an obligation. In a horizontal
27 property regime under chapter 499B or a planned community,
28 the declarant is the owner of a unit. In a cooperative under
29 chapter 499A, the declarant is the owner of any unit to
30 which an interest has been allocated until that unit has been
31 conveyed to another person.

32 11. "*Unit owners association*" means an association,
33 regardless of name, organized as a for-profit or nonprofit
34 corporation, trust, limited liability company, partnership,
35 unincorporated association, or any other form of organization

1 authorized by the laws of this state, the membership of
2 which consists solely of unit owners except following
3 termination of the common interest community, at which time the
4 association shall consist of all former unit owners entitled
5 to distributions of proceeds or their heirs, successors, or
6 assigns.

7 Sec. 2. NEW SECTION. **499C.2 Records retention.**

8 1. A unit owners association shall retain all of the
9 following records for the duration of the existence of the unit
10 owners association:

11 a. Detailed records of receipts and expenditures relating to
12 the operation and administration of the unit owners association
13 and other appropriate accounting records.

14 b. Minutes of all unit owners meetings and executive board
15 meetings, a record of all actions taken by the unit owners or
16 the executive board without a meeting, and a record of all
17 actions taken by a committee of the unit owners association
18 authorized to act for the association. The minutes retained
19 by the unit owners association shall indicate the date, time,
20 and place of the meeting, the names of all persons present
21 at the meeting, and each action taken at the meeting. The
22 minutes shall also include the results of each vote taken at
23 the meeting, including information indicating the vote of each
24 executive board member present at the meeting, and the vote of
25 each executive board member present shall be made public at the
26 open session.

27 c. The unit owners association's original and amended
28 organizational documents, bylaws including all amendments to
29 the bylaws, and all rules and amendments to the rules of the
30 common interest community.

31 d. The unit owners association's annual reports delivered to
32 the secretary of state, if applicable.

33 e. Copies of each contract to which the unit owners
34 association has been or is currently a party.

35 2. A unit owners association shall maintain all financial

1 statements and tax returns of the unit owners association for
2 the immediately preceding ten years.

3 Sec. 3. NEW SECTION. **499C.3 Right to access — exceptions.**

4 1. *a.* Except as provided under subsection 2, all records
5 and documents retained by a unit owners association under
6 section 499C.2 must be available for examination and copying
7 by a unit owner or the unit owner's authorized agent during
8 reasonable business hours or at a mutually convenient time and
9 location upon the unit owner or the unit owner's authorized
10 agent providing five days' notice that reasonably identifies
11 the specific records that are being requested.

12 *b.* Except as provided under subsection 2, all records and
13 documents retained by a unit owners association under section
14 499C.2 must be available for examination and copying by a
15 bona fide prospective purchaser of a unit or the bona fide
16 prospective purchaser's authorized agent during reasonable
17 business hours or at a mutually convenient time and location
18 upon the bona fide prospective purchaser or the bona fide
19 prospective purchaser's authorized agent providing two days'
20 notice that reasonably identifies the specific records that are
21 being requested.

22 2. Records and documents retained by a unit owners
23 association under section 499C.2 may be withheld from
24 inspection and copying to the extent that the records or
25 documents concern any of the following:

26 *a.* Personally identifiable information, salary, or medical
27 information relating to specific individuals.

28 *b.* Information relating to contracts, leases, and other
29 commercial transactions that are currently under negotiation to
30 purchase or provide goods or services.

31 *c.* Information relating to existing or potential litigation,
32 mediation, arbitration, or governmental administrative
33 proceedings.

34 *d.* Information relating to existing or potential matters
35 involving governmental administrative proceedings or other

1 proceedings before a government tribunal for enforcement of the
2 declaration, bylaws, or rules.

3 e. Communications with the unit owners association attorney
4 which are otherwise protected by the attorney-client privilege
5 or the attorney work-product doctrine.

6 f. Information that if disclosed would violate another
7 provision of law.

8 g. Records directly related to the personal, health, or
9 financial information of a unit owner if the person requesting
10 the records is not the unit owner that is the subject of the
11 records.

12 3. A unit owners association shall not charge a fee for
13 providing copies of any records or documents under this
14 section, or for supervising the inspection of such records or
15 documents.

16 4. The right to inspect records under this section includes
17 the right to copy records by photocopying or other means and
18 includes the right to receive copies through an encrypted
19 electronic transmission, if available, upon request of the
20 requester.

21 5. A unit owners association shall not be obligated to
22 compile or synthesize information or records under this
23 section.

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

26 EXPLANATION

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

29 This bill relates to access to unit owners associations'
30 financial information and meeting minutes.

31 Under the bill, a unit owners association is an organization
32 of unit owners in a common interest community, including a
33 planned community, a cooperative under Code chapter 499A, or
34 a horizontal property regime under Code chapter 499B. The
35 bill requires unit owners associations (association) to retain

1 certain records and documents (records) as specified in the
2 bill.

3 All records retained by an association must be available
4 for examination and copying by a unit owner or the unit
5 owner's authorized agent during reasonable business hours or
6 at a mutually convenient time and location upon five days'
7 notice that reasonably identifies the specific records being
8 requested. All records retained by an association must
9 also be available for examination and copying by a bona fide
10 prospective purchaser of a unit or the prospective purchaser's
11 authorized agent upon two days' notice. Records that may be
12 excluded from being made available for examination and copying
13 are detailed in the bill.

14 An association is prohibited from charging a fee for either
15 copies of the records or for supervising the inspection of the
16 records. The right to inspect records includes the right to
17 copy records by photocopying or other means and to receive
18 copies via encrypted electronic transmission, if available.
19 An association is not obligated to compile or synthesize
20 records, and the bill prohibits the records from being used for
21 commercial purposes.