

IOWA

499B.2 Definitions.

Unless it is plainly evident from the context that a different meaning is intended, as used herein:

1. "*Apartment*" means one or more rooms occupying all or a part of a floor or floors in a building of one or more floors or stories and notwithstanding whether the apartment be intended for use or used as a residence, office, for the operation of any industry or business or for any other use not prohibited by law.
 2. "*Building*" means and includes one or more buildings, whether attached to one or more buildings or unattached; provided, however, that if there is more than one building, all such buildings shall be described and included in the declaration, or an amendment thereto, and comprise an integral part of a single horizontal property regime.
 3. "*Co-owner*" means a person, corporation, or other legal entity capable of holding or owning any interest in real property who owns all or an interest in an apartment within the building.
 4. "*Council of co-owners*" means all the co-owners of the building. The business and affairs of the council of co-owners may be conducted by organizing a corporation not for pecuniary profit of which the co-owners are members.
 5. "*General common elements*", unless otherwise provided in the declaration or lawful amendments thereto, means and includes:
 - a. The land on which the building is erected.
 - b. The foundations, basements, floors, exterior walls of each apartment and of the building, ceilings and roofs, halls, lobbies, stairways, and entrances and exits or communication ways, elevators, garbage incinerators and in general all devices or installations existing for common use.
 - c. Compartments or installations of central services for public utilities, common heating and refrigeration units, reservoirs, water tanks and pumps servicing other than one apartment.
 - d. Premises for lodging of service personnel engaged in performing services other than services within a single apartment.
 6. "*Limited common elements*" means and includes those common elements which are specified in or determined under the declaration to be reserved for the use of one or more apartments to the exclusion of the other apartments, such as special corridors, stairways and elevators, sanitary services common to the apartments of a particular floor, and the like.
 7. "*Majority of co-owners*" or "*percent of co-owners*" means the owners of more than one-half or owners of that percent of interest in the building irrespective of the total number of co-owners.
 8. "*Property*" includes the land whether committed to the horizontal property regime in fee or as a leasehold interest, the building, all other improvements located thereon, and all easements, rights and appurtenances belonging thereto.
 9. All pronouns used herein include the male, female and neuter genders and include the singular or plural numbers, as the case may be.
- [C66, 71, 73, 75, 77, 79, 81, §499B.2]

499B.3 Recording of declaration to submit property to regime.

When the sole owner or all of the owners, or the sole lessee or all of the lessees of a lease desire to submit a parcel of real property upon which a building is located or to be constructed to the horizontal property regime established by this chapter, a declaration to that effect shall be executed and acknowledged by the sole owner or lessee or all of such owners or lessees and shall be recorded in the office of the county recorder of the county in which such property lies.

If the declaration is to convert an existing structure, the declarant shall file the declaration of the horizontal property regime with the city in which the regime is located or with the county if not located within a city at least sixty days before being recorded in the office of the county recorder to enable the city or county, as applicable, to establish that the converted structure meets appropriate building code requirements as provided in section 499B.20 . However, if the city or county, as applicable, does not have a building code, the declarant shall file the declaration with the state building code commissioner instead of the applicable city or county at least sixty days before the recording of the declaration to enable the commissioner to establish that the converted structure meets the state building code, as adopted pursuant to section 103A.7 .

[C66, 71, 73, 75, 77, 79, 81, §499B.3]

499B.5 Contents of deeds of apartments.

Deeds of apartments shall include the following particulars:

1. Description of land as provided in section 499B.4 , including the book, page and date of recording of the declaration.
2. The apartment number of the apartment in the declaration and any other data necessary for its proper identification.

3. The percentage of undivided interest appertaining to the apartment in the common areas and facilities.

4. Any further details which the grantor and grantee may deem desirable to set forth consistent with the declaration and this chapter.

[C66, 71, 73, 75, 77, 79, 81, §499B.5]

99B.6 Copy of the floor plans to be filed.

There shall be attached to the declaration, at the time it is filed, a full and an exact copy of the plans of the building, which copy shall be entered of record along with the declaration. The plans shall show graphically all particulars of the building including, but not limited to, the dimensions, area, and location of common elements affording access to each apartment. Other common elements, both limited and general, shall be shown graphically insofar as possible and shall be certified to by an engineer, architect, or land surveyor, who is registered or licensed to practice that profession in this state.

[C66, 71, 73, 75, 77, 79, 81, §499B.6; 82 Acts, ch 1068, §1]

2007 Acts, ch 22, §85

Section amended

499B.7 Interest in common elements - reference to them in instrument.

1. The fractional or percentage interest in the general common elements and the fractional or percentage interest in the limited common elements where such exist are hereby declared to be appurtenant to each of the separate apartments.

2. Any conveyance, encumbrance, lien, alienation or devise of an apartment under a horizontal property regime by any instrument which describes the land and apartment as set forth in section 499B.4 , shall also convey, encumber, alienate, devise or be a lien upon the fractional or percentage interest appurtenant to each such apartment under section 499B.4 , subsection 6, to the general common elements, and the respective share or percentage interest to limited common elements where applicable, whether such general common elements or limited common elements are described as in section 499B.4 , subsections 4 and 5, by general reference only, or not at all.

[C66, 71, 73, 75, 77, 79, 81, §499B.7]

499B.8 Removal from provisions of this chapter.

1. All of the apartment owners may remove a property from the provisions of this chapter by an instrument to that effect, duly recorded, provided that the holders of all liens affecting any of the apartments consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to the percentage of the undivided interest of the apartment owner in the property as hereinafter provided.

2. Upon removal of the property from the provisions of this chapter, the property shall be deemed to be owned in common by the apartment owners. The undivided interest in the property owned in common which shall appertain to each apartment owner shall be the percentage of undivided interest previously owned by such owner in the common area and facilities.

[C66, 71, 73, 75, 77, 79, 81, §499B.8]

499B.9 Removal no bar to subsequent resubmission.

The removal provided for in section 499B.8 shall in no way bar the subsequent resubmission of the property to the provisions of this chapter.

[C66, 71, 73, 75, 77, 79, 81, §499B.9]

499B.10 Individual apartments and interest in common elements are alienable.

When real property containing a building is committed to a horizontal property regime, each individual apartment located in the building and the interests in the general common elements and limited common elements if any, appurtenant thereto, shall constitute for all purposes a separate parcel of real property and shall be as completely and freely alienable as any separate parcel of real property is or may be under the laws of this state, except as limited by the provisions of this chapter.

[C66, 71, 73, 75, 77, 79, 81, §499B.10]

2000 Acts, ch 1142, §2 , 5

499B.11 Real property tax and special assessments - levy on each apartment.

1. All real property taxes and special assessments shall be assessed and levied on each apartment and its respective appurtenant fractional share or percentage of the land, general common elements and limited common elements where applicable as these apartments and appurtenances are separately owned, and not on the entire horizontal property regime. The fair market value determined for an apartment includes the value of its appurtenant share or percentage of the land, general common elements, and limited common elements.

2. Any exemption from taxes that may exist on real property or the ownership thereof shall not be denied by virtue of the registration of the property under the provisions of this chapter.

[C66, 71, 73, 75, 77, 79, 81, §499B.11]

99 Acts, ch 187, §1, 2 ; 2000 Acts, ch 1142, §3 ; 2001 Acts, ch 116, §2

499B.12 Liens against apartments - removal from lien - effect of part payment.

1. Subsequent to recording the declaration provided for in section 499B.3 , and while the property remains enrolled in a horizontal property regime, no lien shall thereafter arise or be effective against the property. During such period liens or encumbrances shall arise or be created only against the individual apartment and the general common elements and limited common elements where applicable, appurtenant to such apartment, in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership.

2. In the event a lien against two or more apartments becomes effective, the owners of the separate apartments may remove their apartment and the general common elements and limited common elements where applicable appurtenant to such apartment from the lien by payment of the fractional or proportional amounts attributable to each of the apartments affected. Such individual payments shall be computed by reference to the fractions or percentages appearing on the declaration provided for in section 499B.4 , subsection 6. Subsequent to any such payment, discharge or other satisfaction the individual apartment and the general common elements and limited common elements applicable appurtenant thereto shall thereafter be free and clear of the lien so paid, satisfied or discharged. Such partial payment, satisfaction or discharge shall not prevent the lienor from proceeding to enforce the lienor's rights against any apartment and the general common elements, limited common elements where applicable appurtenant thereto not so paid, satisfied or discharged.

[C66, 71, 73, 75, 77, 79, 81, §499B.12]

499B.13 Limitation upon availability of partition - exception as to limitation of partition by joint ownership.

1. The provisions of chapter 651 , relating to partition of real property shall not be available to any owner of any interest in real property included within a regime established under this chapter as against any other owner or owners of any interest or interests in the same regime, so as to terminate the regime.

2. Nothing contained in the chapter shall be construed as a limitation on partition by joint owners of one or more apartments in a regime as to individual ownership of such apartment or apartments without terminating the regime, or as to ownership of such apartment or apartments and lands outside the limits of the regime.

[C66, 71, 73, 75, 77, 79, 81, §499B.13]

499B.14 Bylaws.

The administration of every property shall be governed by bylaws, a true copy of which shall be annexed to the declaration and made a part thereof. No modification of or amendment to the bylaws shall be valid unless set forth in an amendment to the declaration and such amendment is duly recorded.

[C66, 71, 73, 75, 77, 79, 81, §499B.14]

499B.15 Contents of bylaws.

The bylaws must provide for at least the following:

1. The form of administration, indicating whether this shall be in charge of an administrator or of a board of administration, or otherwise, and specifying the powers, manner of removal, and, where proper, the compensation thereof.

2. Method of calling or summoning the co-owners to assemble; what percentage, if other than a majority of apartment owners, shall constitute a quorum; who is to preside over the meeting and who will keep the minute book wherein the resolutions shall be recorded.

3. Maintenance, repair and replacement of the common areas and facilities and payments therefor including the method of approving payment vouchers.

4. Manner of collecting from the apartment owners their share of the common expenses.

5. Designation and removal of personnel necessary for the maintenance, repair and replacement of the common areas and facilities.

6. The percentage of votes required to amend the bylaws.

[C66, 71, 73, 75, 77, 79, 81, §499B.15]

499B.16 Disposition of property - destruction or damage.

If within thirty days of the date of the damage or destruction to all or part of the property, it is not determined by the council of co-owners to repair, reconstruct or rebuild, then and in that event:

1. The property shall be deemed to be owned in common by the apartment owners;

2. The undivided interest in the property owned in common which shall appertain to each apartment owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities;

3. Any liens affecting any of the apartments shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the apartment owner in the property as provided herein; and

4. The property shall be subject to an action for partition at the suit of any apartment owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the apartment owners in a percentage equal to the percentage of undivided interest owned by each owner in the property, after first paying out of the respective shares of the apartment owners, to the extent sufficient for the purpose, all liens on the undivided interest in the property owned by each apartment owner.

[C66, 71, 73, 75, 77, 79, 81, §499B.16]

499B.17 Lien against owner of unit.

All sums assessed by the council of co-owners but unpaid for the share of the common expenses chargeable to any apartment shall constitute a lien on such apartment prior to all other liens except only (1) tax liens on the apartment in favor of any assessing unit and special district, and (2) all sums unpaid on a first mortgage of record. Such lien may be foreclosed by suit by the council of co-owners or the representatives thereof, acting on behalf of the apartment owners, in like manner as a mortgage of real property. In the event of any such foreclosure, the apartment owner shall be required to pay a reasonable rental for the apartment if so provided in the bylaws, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same. The council of co-owners or the representatives thereof, acting on behalf of the apartment owners, shall have power, unless prohibited by the declaration, to bid in the apartment at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same.

[C66, 71, 73, 75, 77, 79, 81, §499B.17]

499B.18 Common expenses before foreclosure.

Where the mortgagee of a first mortgage of record or other purchaser of an apartment obtains title to the apartment as a result of foreclosure of the first mortgage, such acquirer of title, the acquirer's successors and assigns, shall not be liable for the share of the common expenses or assessments by the council of co-owners chargeable to such apartment which became due prior to the acquisition of title to such apartment by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the apartment owners including such acquirer, the acquirer's successors and assigns.

[C66, 71, 73, 75, 77, 79, 81, §499B.18]

499B.19 Common expenses after voluntary conveyance.

In a voluntary conveyance the grantee of an apartment shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for the grantor's share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the council of co-owners or its representatives, setting forth the amount of the unpaid assessments against the grantor and such grantee shall not be liable for, nor shall the apartment conveyed be subject to a lien for, any unpaid assessments against the grantor in excess of the amount therein set forth.

[C66, 71, 73, 75, 77, 79, 81, §499B.19]

499B.20 Conversions to meet building codes.

After April 25, 2000, an existing structure shall not be converted to a horizontal property regime unless the converted structure meets local city or county, as applicable, building code requirements in effect on the date of conversion or the state building code requirements, as adopted pursuant to section 103A.7, if the local city or county does not have a building code. For purposes of this section, if the structure is located in a city, the city building code applies and if the structure is located in the unincorporated area of the county, the county building code applies.

2000 Acts, ch 1142, §4, 5; 2004 Acts, ch 1086, §82

572.31 Co-operative and condominium housing.

A lien arising under this chapter as a result of the construction of an apartment house or apartment building which is owned on a co-operative basis under chapter 499A, or which is submitted to a horizontal property regime under chapter 499B, is not enforceable, notwithstanding any contrary provision of this chapter, as against the interests of an owner in an owner-occupied dwelling unit contained in the apartment house or apartment building acquired in good faith and for valuable consideration, unless a lien statement specifically describing the dwelling unit is filed under section 572.8 within the applicable time period specified in section

572.9 , but determined from the date on which the last of the material was supplied or the last of the labor was performed in the construction of that dwelling unit.

[C81, §572.30]

C83, §572.31

427A.1 Property taxed as real property.

1. For the purposes of property taxation only, the following shall be assessed and taxed, unless otherwise qualified for exemption, as real property:

a. Land and water rights.

b. Substances contained in or growing upon the land, before severance from the land, and rights to such substances. However, growing crops shall not be assessed and taxed as real property, and this paragraph is also subject to the provisions of section 441.22 .

c. Buildings, structures or improvements, any of which are constructed on or in the land, attached to the land, or placed upon a foundation whether or not attached to the foundation. However, property taxed under chapter 435 and property that is a concrete batch plant as that term is defined in subsection 4 shall not be assessed and taxed as real property.

d. Buildings, structures, equipment, machinery or improvements, any of which are attached to the buildings, structures, or improvements defined in paragraph "c" of this subsection.

e. Machinery used in manufacturing establishments. The scope of property taxable under this paragraph is intended to be the same as, and neither broader nor narrower than, the scope of property taxable under section 428.22, Code 1973, prior to July 1, 1974.

f. Property taxed under chapter 499B .

g. Rights to space above the land.

h. Property assessed by the department of revenue pursuant to sections 428.24 to 428.29 , or chapters 433 , 434 , 437 , 437A , and 438 .

i. Property used but not owned by the persons whose property is defined in paragraph "h" of this subsection, which would be assessed by the department of revenue if the persons owned the property. However, this paragraph does not change the manner of assessment or the authority entitled to make the assessment.

j. (1) Computers. As used in this paragraph, "*computer*" means stored program processing equipment and all devices fastened to the computer by means of signal cables or communication media that serve the function of signal cables, but does not include point of sales equipment.

(2) Computer output microfilming equipment.

(3) Key entry devices that prepare information for input to a computer.

(4) All equipment that produces a final output from one of the facilities listed in subparagraphs (1), (2) and (3) of this paragraph.

k. Transmission towers and antennae not a part of a household.

2. As used in subsection 1, "*attached*" means any of the following:

a. Connected by an adhesive preparation.

b. Connected in a manner so that disconnecting requires the removal of one or more fastening devices, other than electric plugs.

c. Connected in a manner so that removal requires substantial modification or alteration of the property removed or the property from which it is removed.

3. Notwithstanding the definition of "*attached*" in subsection 2, property is not "*attached*" if it is a kind of property which would ordinarily be removed when the owner of the property moves to another location. In making this determination the assessing authority shall not take into account the intent of the particular owner.

4. Notwithstanding the definition of "*attached*" in subsection 2, property is not "*attached*" if any of the following conditions are met:

a. It is a fixture used for cooking, refrigeration, or freezing of value-added agricultural products, used in value-added agricultural processing, or used in direct support of value-added agricultural processing. For purposes of this subsection, "*direct support*" includes storage by public refrigerated warehouses for processors of value-added agricultural products. Such fixtures shall not be considered "*attached*" whether owned directly by the processor or warehouse operator or by another who leases the fixture to the processor or warehouse operator. This paragraph shall not apply to fixtures used primarily for retail sale or display.

b. It is a concrete batch plant. A "*concrete batch plant*" is the machinery, equipment, and fixtures used at a concrete mixing facility to process cement dry additive and other raw materials into concrete.

c. It is a hot mix asphalt facility.

5. Notwithstanding the other provisions of this section, property described in this section, if held solely for sale, lease or rent as part of a business regularly engaged in selling, leasing or renting such property, and if the property is not yet sold, leased, rented or used by any person, shall not be assessed and taxed as real property. This subsection does not apply to any land or building.

6. Notwithstanding the other provisions of this section, property that is equipment used for the washing, waxing, drying, or vacuuming of motor vehicles and point-of-sale equipment necessary for the purchase of car wash services shall not be assessed and taxed as real property.

7. Nothing in this section shall be construed to permit an item of property to be assessed and taxed in this state more than once in any one year.

8. The assessing authority shall annually reassess property which is assessed and taxed as real property, but which would be regarded as personal property except for this section. This section shall not be construed to limit the assessing authority's powers to assess or reassess under other provisions of law.

9. The director of revenue shall promulgate rules subject to chapter 17A to carry out the intent of this section.

[C71, 73, 75, 77, 79, 81, §427A.1]

85 Acts, ch 32, §103; 95 Acts, ch 67, §32 ; 2001 Acts, ch 116, §21 , 28 ; 2002 Acts, ch 1150, §10 ; 2003 Acts, ch 145, §286 ; 2006 Acts, ch 1146, §1 - 3 ; 2006 Acts, ch 1158, §59 , 69