

Subject Housing cooperatives

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Overview

This bill would establish a new chapter of law allowing for the establishment of housing cooperatives. Housing cooperatives may be enacted under existing chapters 308A and 308C and may be governed as common interest communities by chapter 515B.

Article 1: Minnesota Cooperative Housing Act

Establishes a new chapter of Minnesota Statutes under which housing cooperatives could be formed.

Section	Description – Article 1: Minnesota Cooperative Housing Act
1	Citation. Allows the chapter to be cited as the Minnesota Cooperative Housing Act.
2	Application of other statutes. Provides that a cooperative formed under or governed by preexisting chapters, if it converts to a housing cooperative under this chapter, shall be governed exclusively by this chapter. Exempts membership interests in a housing cooperative from security registration requirements to the extent that membership interests in a cooperative formed under preexisting cooperative chapters would be exempt.
3	Definitions. Defines terms for the purposes of this chapter.
4	Legal recognition of electronic records and signatures. Allows use of electronic records and signatures when writings and signatures are required under this chapter and prohibits invalidation of a document or signature because it is electronic.

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- 5 Use of term cooperative restricted.**
Prohibits use of the term “cooperative” or “housing cooperative” by a business unless it is organized under this chapter or one of the preexisting chapters allowing for organization of a cooperative. Makes violation of this prohibition a misdemeanor.
- 6 Reservation of right.**
Reserves the state’s right to modify this chapter and to govern a cooperative formed under the chapter.
- 7 Filing fees.**
Provides that the fee for filing documents under this chapter is presumed to be \$35.
- 8 Registered office.**
Requires a cooperative to have a registered office and a registered agent. Allows a cooperative to change the agent and office by filing a statement of the change with the secretary of state.
- 9 Annual renewal.**
Requires a cooperative under this chapter to file an annual renewal with the secretary of state. Requires the secretary of state to dissolve a cooperative that fails to file its renewal but allows the cooperative to reinstate its existence by filing its renewal and paying a \$25 fee.
- 10 Organizational purpose.**
Requires that a cooperative formed or organized under this chapter to have its purpose be providing cooperative residential housing on a nonprofit basis, including providing housing through a senior cooperative or a limited equity cooperative.
- 11 Organizers.**
Allows a cooperative to be organized by organizers who must be natural persons but may be acting as agents of other entities.
- 12 Articles of organization.**
Requires articles of organization to include a cooperative’s name, purpose, duration, and office location, as well as the name and address of its organizer and agent if it has an agent. Allows the articles to include other materials but requires a signature by the organizer. Requires that the articles be filed with the secretary of state with a \$60 fee. Creates a presumption that, upon filing, preconditions for chartering the cooperative were met and that the secretary of state shall issue a certificate of organization.

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13	Amendment of articles.
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	Allows amendment of the articles of organization if the amendment is approved both by a majority of the board of directors and by the required proportion of the cooperative members at a meeting including a majority of the total number of members. Requires signature of the amendment by the cooperative president and secretary. Requires preparation of a certificate upon amendment. Allows amendment by the directors if the cooperative has no members or by the organizer if the cooperative has no members or directors. Requires filing of any amendment with the secretary of state upon approval.
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14	Amendment of organizational documents to be governed by this chapter.
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	Allows a housing cooperative organized under chapters 308A, 308B, or 515B to amend its organizational documents to conform with this chapter and to form as a housing cooperative under this chapter, provided that it obtains the requisite approval of its members and files certificates that the requisite steps for conversion were completed. Provides that legal rights and obligations of a cooperative that preexisted the conversion apply to the cooperative after conversion.
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15	Existence.
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	Provides that a cooperative comes into existence upon filing articles of organization with the secretary of state and lasts forever unless the articles specify a limited duration.
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16	Bylaws.
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	Requires a cooperative to have bylaws enumerating, when not stated in the articles of organization, the cooperative's structure, voting and governance rights, including a statement as to how profits and losses will be allocated among members. Allows bylaws to be adopted by an organizer or nonoccupant member if there are no members, by members, or by the board of directors to the extent allowed by the bylaws and the articles. Allows members but prohibits the board from amending the definition of a quorum or the voting requirements for members. Allows for amendments of the definition of a quorum or voting requirements for the board provided that the amendment be supported by at least the number of votes necessary to amend the amendment. Allows for the adoption of emergency bylaws, which members can repeal, if a quorum of the board cannot be obtained due to a catastrophic event.
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17	Cooperative records.
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	Requires a cooperative to retain minutes of board and member meetings and account records. Requires a cooperative to maintain in its office various records,
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- including the cooperative articles and bylaws. Gives the board discretion to set a records retention policy.
- 18 **Powers.**
Provides that a housing cooperative under this chapter has the abilities: to carry out its purpose; to exercise the powers granted to cooperatives under other chapters of law; to sue and to be sued; to contract with members and on behalf of members and itself; to complete real estate transactions and to hold real estate; to erect buildings or structures; to borrow money and to issue debt; to make advances to members; to lend and invest its funds; to pay the salaries and benefits of employees and to offer benefits to officers, managers, directors, and agents; to provide insurance to members, managers, directors, employees, and agents; to purchase, acquire, hold, or dispose of ownership interests in other business entities; and to exercise fiduciary powers.
- 19 **Emergency powers.**
Provides that, when a quorum of directors cannot be readily obtained due to a catastrophic event, the board may modify lines of succession and relocate the office. When not prohibited by the bylaws, allows the board to meet without providing normal notice and to deem an officer a director to achieve a quorum. Provides that good faith exercise of emergency powers binds the cooperative and is not the basis for a claim against any officer, director, agent, or employee for taking action unauthorized by the cooperative.
- 20 **Occupancy agreements and proprietary leases.**
Allows a cooperative to make and execute leases and other occupancy agreements. Requires a cooperative to maintain title to dwelling units in the cooperative, except for a manufactured home. May require a member to pay for breaches of the lease or occupancy agreement.
- 21 **Limited equity cooperatives.**
Allows a housing cooperative to form as a limited equity cooperative to fulfill the cooperative purpose of providing housing affordable to low- and moderate-income households, provided that: (1) cooperative interests be sold for no more than a value set in the bylaw intended to insure membership interests remain affordable; (2) the cooperative may not be reorganized as another type of cooperative without first dissolving; (3) the cooperative not sell its assets to circumvent its purpose; (4) the articles require the cooperative to retain first right to repurchase a member's cooperative interest; (5) the articles require that the total distribution to a member not exceed the transfer value; and (6) the articles require that, upon dissolution, after paying debts and distributions to members, any remaining assets be distributed

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- to a nonprofit, a public agency, or another limited equity cooperative with a transfer value no more restrictive than that of the dissolved cooperative.
- 22 **Board governs cooperative.**
Provides that the cooperative is governed by the board of directors, whose action is by majority vote.
- 23 **Number of directors.**
Requires a board be comprised of at least three directors, but allows for articles and bylaws to set a higher minimum. Allows a majority of directors to appoint new directors if the minimum number of directors is not met.
- 24 **Election of directors.**
Allows a developer or organizer to appoint the first board. Requires member elections to select subsequent boards. Allows allocation of voting authority based on the types of membership interests but requires at least two-thirds of the voting authority to be held by members who have the right to reside in a cooperative dwelling unit. Allows alternative means of voting and for members who are business entities to select a natural person to be eligible for serving as director.
- 25 **Filling vacancies.**
If a position for an occupant director opens, requires that a director elected by occupant members appoint an occupant member to fill the position, or, if the board has no director elected by occupant members, requires a special members' meeting to elect an occupant director. Allows the board to appoint directors to fill positions for nonoccupant directors.
- 26 **Removal of directors.**
Provided that the articles or bylaws do not provide otherwise, allows removal of a director by a majority vote of the board if the director was appointed by the board and the members have not elected replacement directors at the time of the vote. Allows removal by a majority vote of members. Requires a majority vote of the class or type of members entitled to vote on the removal if the director was elected by a particular class or type of members.
- 27 **Board of directors' meetings.**
Allows board meetings as provided in the bylaws or articles. Allows bylaws and articles to authorize open meetings but allows closure of meetings pertaining to certain private or confidential matters. Allows for meetings through electronic communication. Allows a director to call a meeting on 10 days' notice or an organization meeting on three days' notice. Allows waiver of the notice period by a director and deems attendance at a meeting waiver unless the director objects to

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| | lack of notice. If bylaws allow, allows a director who will be absent to consent or object to a proposal through a writing prior to a meeting and deems that writing a vote on the proposal. |
| 28 | Quorum.
Sets a majority of directors as a quorum but allows bylaws or articles to set some supermajority as a quorum. Requires a quorum at the convention of a meeting to conduct business but does not require that the quorum be maintained through the meeting to continue conducting business. |
| 29 | Act of board of directors.
Allows the board to take action by a majority vote of the directors. Allows the bylaws and articles to require a supermajority for board action. |
| 30 | Action without a meeting.
Allows the board to act upon the written agreement of all members. Allows a majority of members to act through a writing if the bylaws or articles allow. |
| 31 | Committees.
Allows the board to establish and delegate authority to committees. Allows the board to appoint any natural person as a committee member. Requires that procedures for board meetings apply to committee meetings and that any committee meeting minutes be available to committee members and any director. Treats committee members as directors for the purposes of sections 33, 34, and 36. |
| 32 | Standard of conduct.
Requires a director to act in good faith and in the best interests of the cooperative, using reasonable care. Absolves a director who so acts from liability by reason of being or having been a director. Generally allows a director to rely for information on cooperative officers, experts, professionals, and committees. Deems a director to have assented to a board action unless the director was absent from the meeting, objected to the meeting, voted against the action, or was ineligible to vote on the action due to a conflict of interest. Allows a director, in considering the best interests of the cooperative, to consider a variety of factors, including the state economy, the interests of employees and vendors, and the short- and long-term interests of members. |
| 33 | Director conflicts of interest.
Provides that a contract between a cooperative and a director or a business in which the director has a material financial interest or is an officer is not void or voidable for that reason if the contract made available to all members or if the director's conflict is disclosed or known to members and to the board or committee which approves |

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- the contract without the conflicted director. Provides that a director has a material financial interest in any business in which the director's family members have a material financial interest.
- 34 **Limitation of director's liability.**
Allows bylaws and articles to limit a director's financial liability to the cooperative and its members for breaches of the standard of conduct in section 33, except that liability cannot be limited for: (1) actions taken in bad faith or without reasonable care; (2) intentional misconduct or knowing violations of law; (3) illegal distributions; (4) transactions from which the director derived an improper personal benefit; and (5) for actions predating the limitation of liability.
- 35 **Indemnification.**
Unless indemnification is prohibited or limited in the articles or bylaws, requires the cooperative to indemnify a person made a party to a proceeding due to the person's former or present official capacity in the cooperative, provided that: (1) no other organization has indemnified the person; (2) the person acted in good faith; (3) the person received no improper personal benefit from the actions giving rise to the proceeding; (4) in the case of a criminal proceeding, the person had no reason to believe the conduct was unlawful; and (5) depending on the official capacity of the person, reasonably believed that the conduct was either in, or not opposed to, the best interests of the cooperative. Requires that legal fees be advanced to a person entitled to indemnification. Allows determinations regarding who is entitled to indemnification to be made by the board, by directors, by special legal counsel, by members, or by a court. Allows the cooperative to purchase insurance to cover costs of indemnification. Requires a cooperative to inform members if it indemnifies a person or advances legal fees.
- 36 **Officers.**
Requires the board to elect members as officers. Allows the board to employ a general manager to oversee operations of the cooperative.
- 37 **Members.**
Requires a cooperative to have a member and to have a class of occupant members. Allows a cooperative to have additional classes of members. Allows the board to require surrender of the membership interest of a member who knowingly or repeatedly violates the bylaws, articles, lease, or cooperative rules. Requires the cooperative to refund the member for the surrender and allows the board either to reissue or to retire the surrendered membership interests. Allows a member who has been a member for at least one year or who owns at least five percent of the outstanding equity interests in the cooperative to obtain the records required in

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- section 18 provided that the records demanded in good faith for a proper cooperative business purpose to which the documents are connected.
- 38 **Member restrictions.**
Allows a cooperative to restrict membership and occupancy to older persons, to low- and moderate-income persons, and to persons based on other categorizations not violating the Fair Housing Act.
- 39 **Member not liable for cooperative debts.**
Provides that a member is not liable for cooperative debts due solely to the member's status as a member.
- 40 **Regular member meetings.**
Requires annual member meetings including fiscal reports by the officers. Requires director elections at the annual meetings. Requires notice of the annual meeting but allows waiver of the notice requirement.
- 41 **Special member meetings.**
Allows for special member meetings called by the board, by at least a fifth of the occupant members, and, if allowed by the bylaws or articles, by a fifth of all members, by a fifth of nonoccupant members, or by members representing at least 20 percent of the membership interests. Requires notice of the special meeting but allows waiver of the notice requirement.
- 42 **Certification of meeting notice.**
Requires that the cooperative certify its notices regarding member meetings.
- 43 **Quorum.**
Unless increased by the bylaws, sets a quorum at 10 percent of the number of members. Requires a quorum for members to take action. Deems members who participated in voting by mail as being present for the purposes of determining whether there is a quorum.
- 44 **Remote communications for member meetings.**
When allowed by the bylaws, allows member meetings to be held solely or partially remotely. Requires notice of any remote meetings but allows waiver of the notice requirement.
- 45 **Act of members.**
Members act by the affirmative vote of a majority of members present. Allows bylaws and articles to require more members for a quorum and to require a supermajority for member action. Requires that an amendment to the bylaws or

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- articles to change the number of members for a quorum or the proportion of members necessary for action to be supported by at least the quorum and majority requirements necessary to repeal the amendment.
- 46 **Action without a meeting.**
Allows members to take action through electronic communication by the percentage of members necessary to take action at a member meeting.
- 47 **Member voting rights.**
Sets the number of memberships at the number of dwelling units in a dwelling unit in the cooperative. Provides that, if the cooperative has both occupant and nonoccupant members, occupant members' voting interests are voted collectively based on the majority vote of occupant members and nonoccupant members' voting power is voted collectively based on the majority vote of nonoccupant members. Allows voting in person, and if allowed by the board, by mail or alternative methods.
- 48 **Sale of property and assets.**
Allows the board to act to sell, lease, or transfer all of a cooperative's assets, subject to approval by the members.
- 49 **Membership interests.**
Allows members to vote on the number and divisions of membership interests, including nonoccupant membership interests, if authorized. Requires occupant membership interests to be entitled to at least 60 percent of the rights to profit allocations and distributions. Requires board approval to sell or transfer membership interests. Provides the cooperative with the first right to purchase membership interests. Allows a nonoccupant member to demand the fair market value of the membership interest if an amendment to the bylaws or articles materially and adversely affects the rights of nonoccupant members.
- 50 **Title to membership in the cooperative.**
Allows title to membership in the cooperative to be held by (1) a natural person meeting member requirements; (2) a natural person who is a third-party purchaser for a natural person meeting member requirements; (3) a natural person who is the trustee of a trust for a natural person meeting member requirements; (4) a natural person subject to a life estate by a natural person meeting member requirements; (5) a transfer on death beneficiary allowed under the bylaws; and (6) with respect to a nonoccupant membership interest, any person. When title is held by someone not qualifying for meeting member requirements, voting rights vest in the occupant.

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51 Developer rights, restrictions, and obligations.

Allows a developer who organized a cooperative to appoint an initial board. Allows the cooperative to cancel any contracts with the developer without penalty if entered into by the board appointed by the developer, or earlier. Requires the developer to pay all cooperative expenses incurred prior to occupancy of the project and to pay the share of ongoing expenses attributable to dwelling units not yet conveyed to members.

52 Assignment of financial rights.

Allows members to assign their financial rights in a cooperative, unless limited by the bylaws or articles.

53 Nature of a membership interest and statement of interest owned.

Deems membership interests personal property. Allows for cooperatives to place liens on membership interests. Requires that membership interests be of one class but allows distinctions between occupant and nonoccupant memberships. Allows a creditor to garnish a member's distributions. Allows the legal representative of a member to exercise the rights of the member if the member is a natural person and dies or becomes incompetent or if the member is a business entity and is dissolved, terminated, or placed in receivership or bankruptcy.

54 Senior housing cooperative offering documents; general provisions.

Requires that documents be provided to each subscriber in a senior housing cooperative. Requires that documents be provided to a purchaser if a membership interest in a senior housing cooperative is resold. Imposes requirements on subscription agreements for new senior housing cooperative projects and on occupancy agreements for senior housing cooperatives.

55 Budget and replacement reserve requirements.

Requires the budget of a senior housing cooperative to include reserves for replacing property as it wears out, a general operating reserve, and any other reserve.

56 Lien for assessments.

Provides that all senior housing cooperatives have a lien on membership interests and occupancy rights for any assessments.

57 Foreclosure of liens or to acquire occupancy rights following membership termination in a senior housing cooperative.

Allows a cooperative's lien to be enforced by a private sale or by an acceptance of membership interests following issuance of a 90-day notice. If the lien is not satisfied by expiration of the notice, allows the cooperative to evict the member.

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58 Certificated membership interests.

Requires that membership interests be either certificated or uncertificated. Requires issuance of signed certificates for certificated membership interests.

59 Lost certificates; replacement.

Allows a cooperative to reissue a certificate of membership interests to replace a lost certificate.

60 Restriction on transfer or registration of membership interests.

Allows bylaws, articles, and member action to restrict members from transferring or registering their membership interests.

61 Operating agreement.

Allows members to agree unanimously on the operation of a cooperative and gives that agreement the effect of an amendment to the bylaws.

62 Authorization, form, and acceptance of contributions.

Allows a cooperative to accept contributions either as money or an ownership interest or as a written obligation.

63 Restatement of value of previous contributions.

Requires a cooperative that accepts a new contribution to provide a restatement of the value of previous contributions.

64 Contribution agreements.

Allows a cooperative to enter into a contribution agreement. Requires payment of contribution and allows enforcement as any debt is enforced. Allows the cooperative to sell the membership interests of a delinquent member.

65 Contribution rights agreements.

Allows a cooperative to enter into a contribution rights agreement. Restricts assignment of the agreement unless agreed to by all of its parties.

66 Allocations and distributions to members.

If bylaws or articles allow for nonoccupant members, requires that the bylaws prescribe allocation of profits and losses and cash and other assets among membership interests. Requires that payments to occupant members be at least 15 percent of the total amount distributed in any given year. Unless otherwise specified, requires that distribution be based on the value of contributions to capital made by members.

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67	Allocations and distributions to occupant members. Requires a distribution of net income to occupant members at least annually but allows portions of net income to be set aside for reserves.
68	Distribution of unclaimed property. Allows unclaimed property to be distributed to a tax-exempt organization.
69	Merger and consolidation. Allows cooperatives to merge with each other and with other business entities provided that a plan of merger is prepared and approved by members.
70	Merger of subsidiary. Allows for subsidiaries of a cooperative to be merged after preparation of a notice of merger, plan of merger, and articles of merger.
71	Abandonment. Allows abandonment of a plan to merge.
72	Methods of dissolution. Allows dissolution by the members or by court order.
73	Voluntary dissolution by members. Allows members both to vote to dissolve and to revoke the decision to dissolve.
74	Notice of intent to dissolve. Requires filing a notice of intent to dissolve with the secretary of state before dissolving a cooperative.
75	Winding up. Requires the board or officers to collect and pay all debts upon filing notice of intent to dissolve. Allows the board to sell or transfer all property. Requires distribution of property to members.
76	Revocation of dissolution proceedings. Allows members to vote to revoke dissolution proceedings. Makes revocation effective upon filing a notice of revocation with the secretary of state.
77	Statute of limitations. Provides a defense to all claims against a cooperative not initiated within two years after filing a notice of intent to dissolve.

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78 Articles of dissolution.

Requires, after paying debtors and claimants and distributing assets to members, a dissolving cooperative to file articles of dissolution. Requires the secretary of state to issue a certificate of dissolution.

79 Application for court-supervised voluntary dissolution.

After filing a notice of intent to dissolve with the secretary of state but before dissolution, a member or credit may request court supervision of the dissolution.

80 Court-ordered remedies or dissolution.

Allows the court to provide equitable relief and to order dissolution in proceedings involving a cooperative. Requires the court to consider lesser relief before ordering dissolution.

81 Procedure involuntary or court-supervised voluntary dissolution.

In an involuntary or court-supervised dissolution, prior to a hearing on the proceeding, allows the court to appoint a receiver, issue injunction, preserve assets, and operate the cooperative. Allows a court to appoint a receiver after the hearing. Requires proceeds from the sale, lease, or transfer of cooperative property to paid to claimants and debtors and then to members.

82 Receiver qualification and powers.

Allows a competent and disinterested person to act as a receiver and requires the receiver to post a bond. Allows a receiver to sue and defend lawsuits on behalf of the cooperative.

83 Dissolution action by attorney general; administrative dissolution.

Allows the attorney general to bring a dissolution action if a cooperative has violated this chapter, obtained organization through fraud, or abandoned or surrendered the cooperative. Requires notice to the cooperative by the attorney general before bringing the action.

84 Filing claims in court-supervised dissolution proceedings.

Allows the court in an involuntary or court-supervised dissolution proceeding to require creditors and claimants to file their claims. Allows the receiver and any interested party to object to the claim.

85 Discontinuance of court-supervised dissolution proceedings.

Allows discontinuance of an involuntary or court-supervised dissolution proceeding if it is established that there is no good cause for dissolution.

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86	Court-supervised dissolution order.
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	Requires the court to dissolve a cooperative in an involuntary or court-supervised dissolution proceeding once all property and assets have been applied to debts and any surplus distributed to members.
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87	Filing court's dissolution order.
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	Requires the court administrator to file a notice of dissolution, at no cost to the court, with the secretary of state after the court enters an order dissolving a cooperative.
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88	Barring of claims.
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	Bars claims not filed during the pendency of a dissolution proceeding, except for claims by persons who had good cause not to file the claim against the distributions of assets or against a member for distributions received by the member.
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89	Right to sue or defend after dissolution.
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	Allows former officers, directors, and members of a dissolved cooperative to assert and defend claims by and against the cooperative. Requires payments to claimants prior to distributions of assets to members after dissolution.
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Article 2: Cross-reference Updates

This article would update miscellaneous provisions of law to include reference to the proposed chapter 308C.

Section	Description – Article 2: Cross-reference Updates
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1	Eligible applicants.
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	Updates references to cooperative housing chapters to include 308C for the purposes of defining eligible entities for border-to-border broadband development grants.
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2	Limited equity cooperative apartments.
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	Updates references to cooperative housing chapters to include 308C for the purposes of valuating limited equity cooperative apartments.
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3	Cooperatives and charitable corporations; homestead and other property.
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	Updates references to cooperative housing chapters to include 308C for the purposes of determining homestead status of cooperative housing.
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Section Description – Article 2: Cross-reference Updates

- 4 Manufactured home park cooperative.**
Updates references to cooperative housing chapters to include 308C for the purposes of determining homestead status of manufactured home park cooperatives.
- 5 Leasehold cooperatives.**
Updates references to cooperative housing chapters to include 308C for the purposes of determining homestead status of leasehold cooperatives.
- 6 Definitions.**
Updates references to cooperative housing chapters to include 308C for the purposes of determining eligibility for receiving a tax credit for selling a manufactured home park to a housing cooperatives.
- 7 Exemptions.**
Updates references to cooperative housing chapters to include 308C for the purposes of determining exemptions from the corporate minimum fee for senior housing cooperatives.
- 8 Manufactured homes.**
Updates references to cooperative housing chapters to include 308C for the purposes of the property tax refund.
- 9 Park conversions.**
Updates references to cooperative housing chapters to include 308C for the purposes of providing exceptions to notice requirements applying to manufactured home parks converting to common interest communities.
- 10 Establishment.**
Updates references to cooperative housing chapters to include 308C for the purposes of defining entities eligible to receive workforce and affordable homeownership funding.
- 11 Organization of unit owners' association.**
Updates references to cooperative housing chapters to include 308C for the purposes of listing ways that unit owners' associations administering common interest communities may be organized.



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