

CHILE

Housing Cooperatives — ILRAI Report

International Legal Research & Analysis Initiative (ILRAI)

Cooperative Housing International | ICA

Chile General Law on Cooperatives · DFL 5 of 2003

Cooperative
Housing
International

No dedicated housing cooperative law

Chile has no separate housing cooperative act. Cooperatives are regulated by the General Law on Cooperatives (DFL 5 of 2003) and its regulations.

Legal definition

Housing cooperatives are defined as organisations "whose purpose is to satisfy the housing and community needs of their members and to provide the services inherent to this purpose."

Non-profit structure

Chile's cooperative law establishes that cooperatives "do not earn profits." Any surplus must be used for the cooperative's purpose or placed in indivisible reserve funds.

Third-party dealings permitted (under limits)

Co-ops may have operations with non-members within statutory limits. They must not enter arrangements that allow outsiders to obtain cooperative rules.

Open housing cooperatives must pursue a single purpose: providing housing to their members.

DFL 5

of 2003
General Law on
Cooperatives

Types or classes of Cooperatives

- **Close cooperatives to develop one project.**
- **Open Cooperatives to develop several projects.**

Governance & Membership Rights

GOVERNANCE

General Assembly: supreme organ with a reserved list of exclusive powers — approves bylaws, elects directors, decides fundamental transactions.

Elected Board of Directors: administrators are liable even for slight negligence. Breaches can result in removal or personal liability.

A limited minority of non-member directors is permitted (if bylaws allow), bringing expertise without diluting democratic control.

Members hold 1 member = 1 vote, are eligible for office, and have full information rights.

MEMBERSHIP

Admission is open and voluntary. Legal entities may join. Member liability is limited to their individual stake.

Housing rights are exercised through ownership. Transfers require board consent.

Capital concentration cap: no member may hold more than 20% of the cooperative's capital.

Investor-only members are not permitted. Surpluses are reinvested in reserves or used to reduce member charges.

Financing Mechanisms & Tax Treatment

FINANCING

Capital base

Member contributions, equal or calibrated to houses type and size

Main source

Bank lending (no dedicated national cooperative funding lines equivalent to Uruguay)

MINVU

Ministry of Housing subsidy programmes award projects and provide financing for housing co-ops, real state developers and Constructors in a competitive basis.

Investor members

Not permitted. Surpluses are reinvested

⚠ No dedicated national cooperative housing financing instrument

TAX TREATMENT

Member surpluses

Receive favourable treatment.

Third-party dealings

Taxed normally, preserving neutrality with the market.

Reserves

Surpluses cover losses, refund member shares, and allocate remaining balances per law and bylaws.

No housing-specific tax

No dedicated tax regime for housing cooperatives; general cooperative law applies.

Tax treatment derive from general cooperative rules, not a housing-specific regime. No profits, no taxes.

Oversight, Audits & Education Funds

OVERSIGHT & CONTROL

The Department of Cooperatives of Ministry of Economy registers and inspects all cooperatives. Cooperatives pay an oversight fee based on their assets.

MINVU supports final beneficiary through housing subsidy to programs, either coop or not coop. No cooperative development fund exists for housing co-ops.

Cooperatives may form federations under the law's integration rules.

The regulator may demand any type of legal and accounting information to verify compliance at any time.

AUDITS

At each financial year-end, financial statements must be audited by external auditors.

The General Meeting appoints external auditors for the following financial year.

Auditors review financial, accounting, and legal information and issue a formal pronouncement.

The regulator may request additional documentation at any point.

EDUCATION FUNDS

A public fund "Creation and Strengthening of Cooperatives" (SERCOTEC) exists for strengthening.

Housing cooperatives are EXCLUDED: the fund targets only agricultural, fishing, labour, service, and consumer co-ops.

No cooperative education fund specific to the housing sector exists.

Significant gap vs Uruguay (FRECOOP) and Brazil (FATES).

Good Examples: CONAVICOOP

>50

years of experience
of Conavicoop

70,000+

housing units developed
by Conavicoop nationwide

3

model cooperatives:
Conavicoop · Provicoop ·
Vimacaucoop

Ministry of
Housing

housing subsidy
programmes enable
all projects

Although housing cooperatives are not a majority in Chile, they have achieved solid results in reducing the housing deficit, supported systematically by MINVU through subsidy programmes.

HOUSING AS A HUMAN RIGHT

- The right to housing is NOT a fundamental guarantee in the Constitution and is not enforceable at the jurisdictional level.
- Chile has signed all international and regional human rights treaties, but these have not been translated into an enforceable constitutional guarantee.
- The Constitution does recognise as fundamental rights the freedom to acquire ownership and the right to property over tangible and intangible assets.

Critical Gaps & Recommendations for Chile

Legal Uncertainty

Reliance on general cooperative statute: housing-specific rules on tenure, allocation, and transfers are left to bylaws and programme conditions, generating uneven practice.

No Dedicated Financing Instrument

Chile relies on bank lending. No national public funding line equivalent to Uruguay's MVOT loans. No systemic access to serviced public land or guarantees.

Oversight Without Development Fund

The Department of Cooperatives registers and inspects, but housing cooperatives do not benefit from the cooperative development fund — only MINVU subsidy support is available.

Streamline Incorporation

Simplify incorporation and supervisory procedures and give legal certainty to cooperative-use tenure while maintaining non-profit treatment and reserve requirements.

Exclusion from SERCOTEC Fund

Housing cooperatives are excluded from the "Creation and Strengthening of Cooperatives" fund. They should be included to strengthen management capacity and member benefits.

Housing as an Enforceable Right

Advance towards constitutional recognition of the right to housing, aligning with the international human rights treaties already signed by Chile.