

---

Power House nZEB Challenge

**Legal and organizational framework – focus on divided  
and cooperative ownership multifamily buildings**

**The German case**

International workshop

Tallinn, Estonia

12 – 13 June 2014

Fabian Viehrig, GdW Bundesverband deutscher Wohnungs- und  
Immobilienunternehmen e.V.

# Agenda

- GdW
- Structure and characteristics of the German housing market
- Rental market and legal framework
- Apartment owners community
- Cooperatives

# GdW and the Member Companies

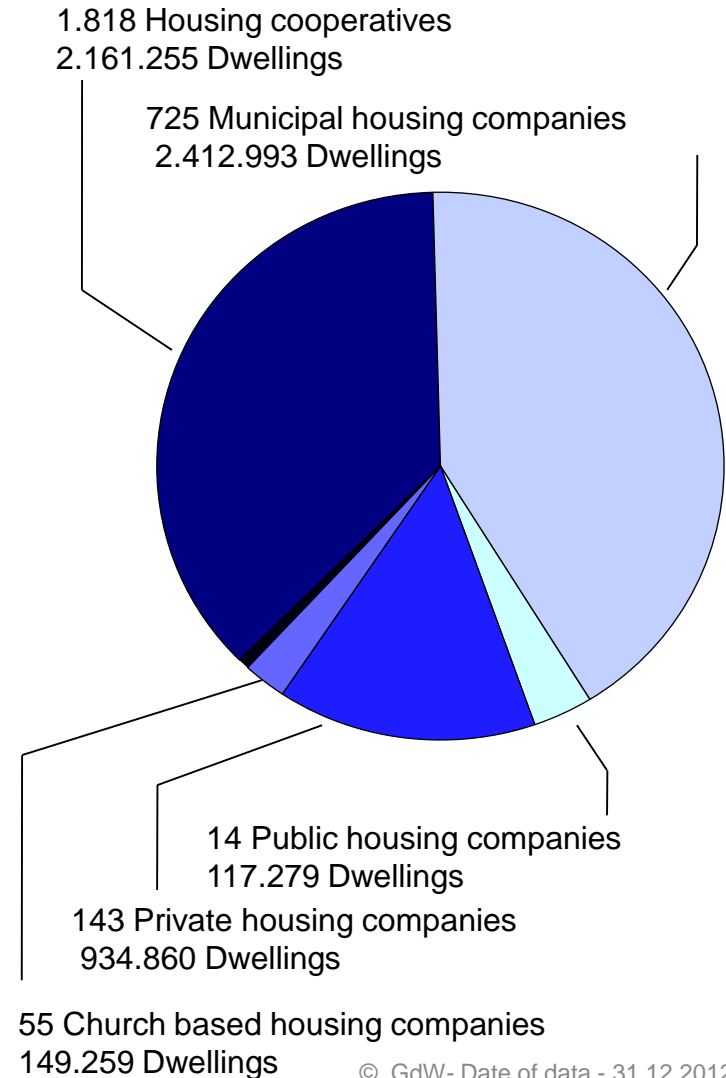


GdW is the biggest head federation of housing and real estate in Germany.

Nearly 3.000 housing cooperatives and other legal forms of housing companies are organized in 15 regional federations.

The housing companies all together are managing nearly 6 million housing units. This corresponds to 30 % of all rental housing units in Germany.

[www.gdw.de](http://www.gdw.de)



# Supplier structure in German housing market as of 9. Mai 2011

## Housing stock in Germany

41.299 thousand dwellings

add. 15 T.  
other occupied  
accommodation

**Professional-  
commercial suppliers**  
8.397 thousand dwellings

20 %

### Cooperatives

2.169 thousand dwellings

### Municipal housing companies

2.392 thousand dwellings

### Public housing companies

304 thousand dwellings

### Private professional-commercial Owners\*

3.202 thousand dwellings

### Church and others

330 thousand dwellings

**Private small suppliers**  
15.410 thousand dwellings

37 %

### One- and two-family houses

4.563 thousand dwellings

### Apartments

10.848 thousand dwellings

\*private sector housing companies, credit  
institutions, insurance companies, real estate  
funds, other companies and non-profit  
organizations

**Owner-occupied**  
17.491 thousand dwellings

43 %

### One- and two-family houses

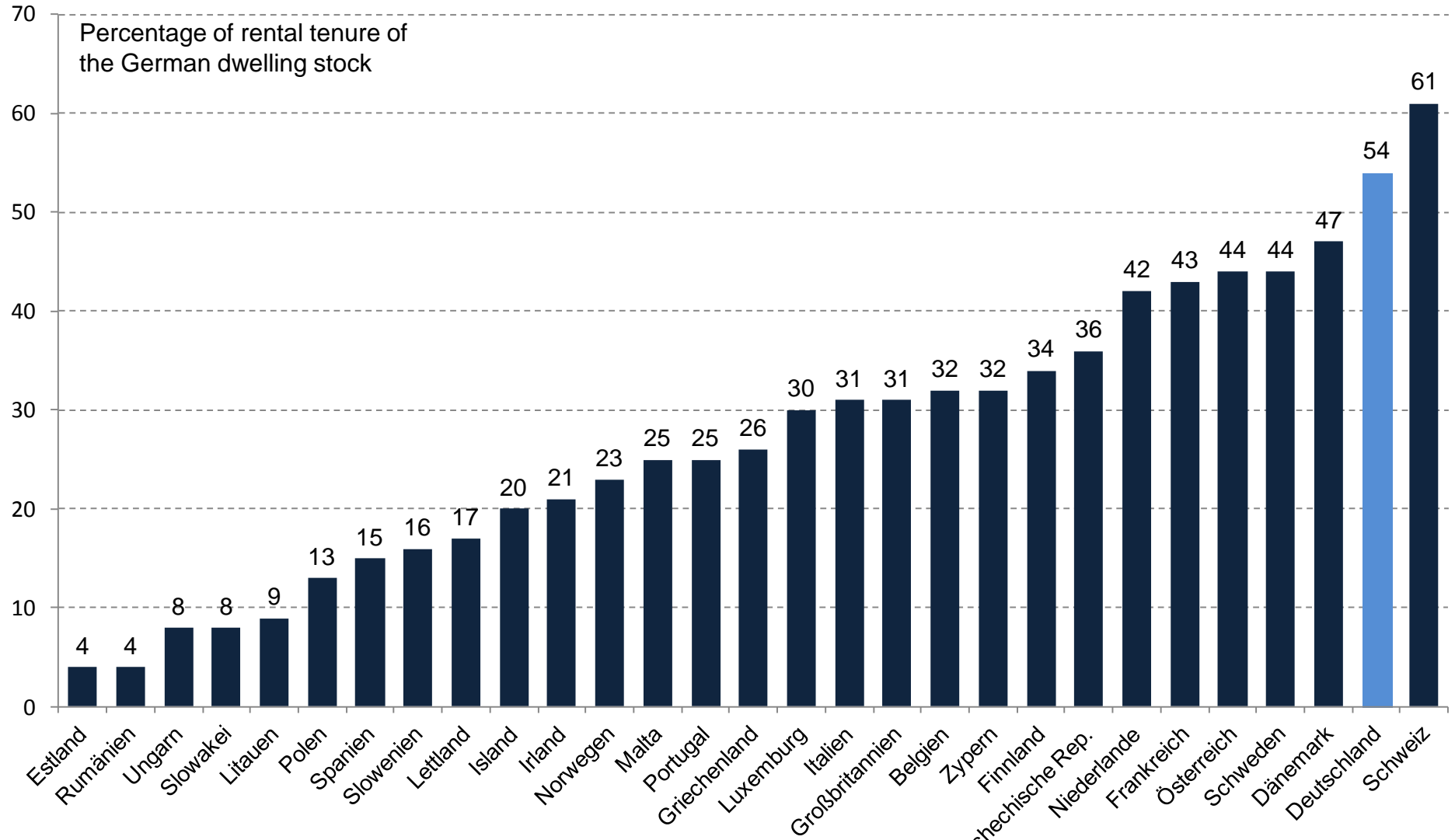
13.833 thousand dwellings

### Apartments

3.658 thousand dwellings

# Percentage of rental tenure in Europe 2009

States of EU and EFTA; let dwellings in % of entire residential property



Quelle: Eurostat sowie Ministry of the Interior and Kingdom Relations (2010): Housing Statistics in the European Union 2010, The Hague ; Daten zur Mieterquote aus 2008 bis auf Österreich, Belgien, Dänemark, Niederlande = 2009; Frankreich = 2006; Malta = 2005, Polen = 2007, Griechenland = 2004, Tschechische Republik, Zypern, Litauen, Italien = 2000 ; Anmerkung: "genossenschaftlicher Sektor" von Dänemark, Polen und Schweden wurde dem Eigentumssektor zugeschlagen;



# Controlling of rental market



---

Housing policy

by basic legal framework

economic instrumentsthe

tax and subsidisation policy measures

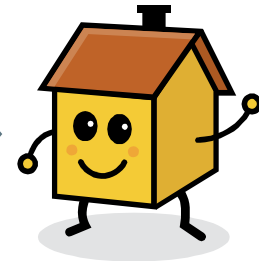
- The German housing market is heavily regulated.
- Defined above all by rent law
- The legal framework
  - protects the **tenant, e.g.**
    - Protection against eviction
    - Limited rent increase according to comparative rent principle.
    - The landlords are obliged to carry out the maintenance work required to keep the dwelling in proper estate.
  - allows the landlord to **rent profitably**, e.g.
    - The landlord is in general free to choose the future tenant.
    - It is possible to pass on costs of refurbishment.
    - The tenant is obliged to realize the rent payments regularly and to take care of the dwelling.
    - The landlord may cancel the contract in case of serious violations of the tenant's duties.

# Financial support for social housing in Germany

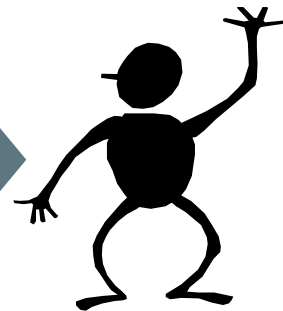
- Two ways of providing suitable housing for all:

Subsidies in form of

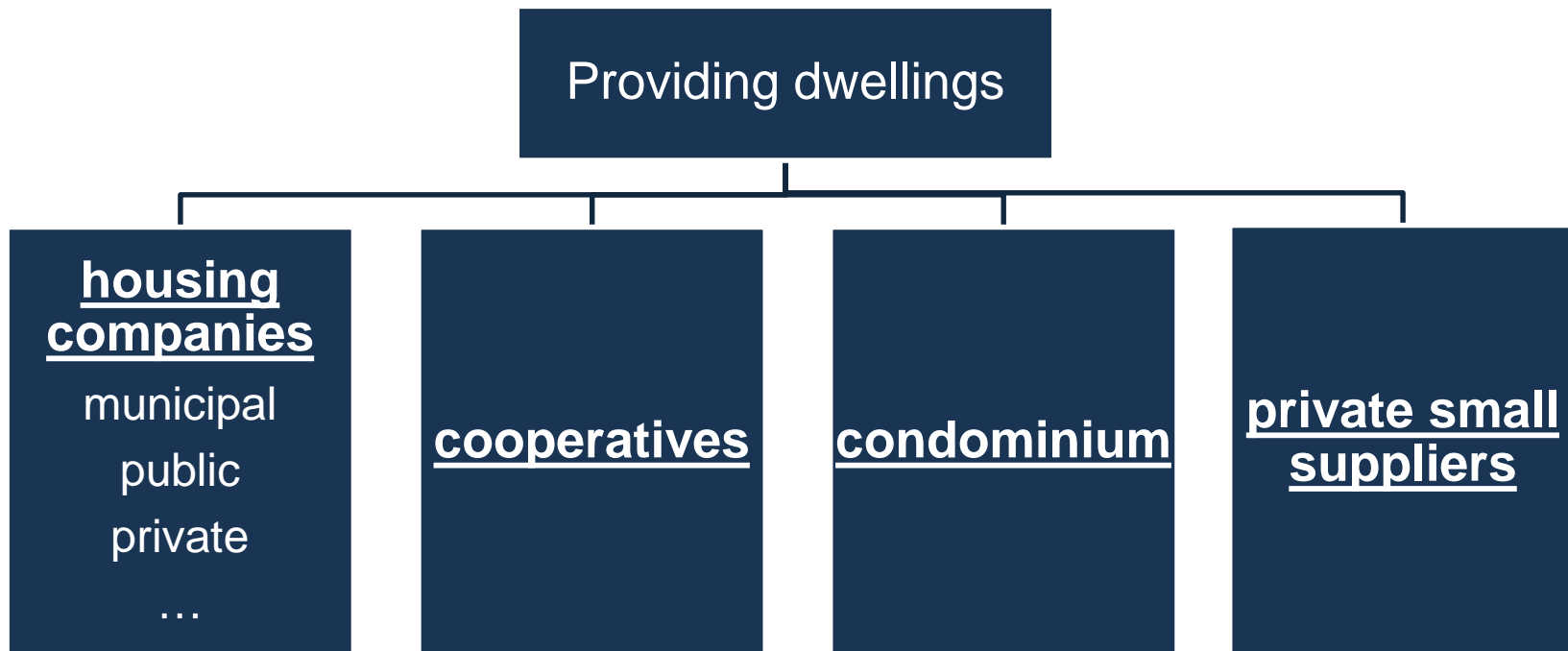
- Benefit payments for projects/buildings/facilities
  - Creation, maintenance of buildings
  - Fixed rent or occupant (target group)
  - "property subsidisation"



- Benefit payments for individuals
  - Basic (social) care
  - Payments (in part or fully) for tenant's accommodation
  - "tenant subsidisation"



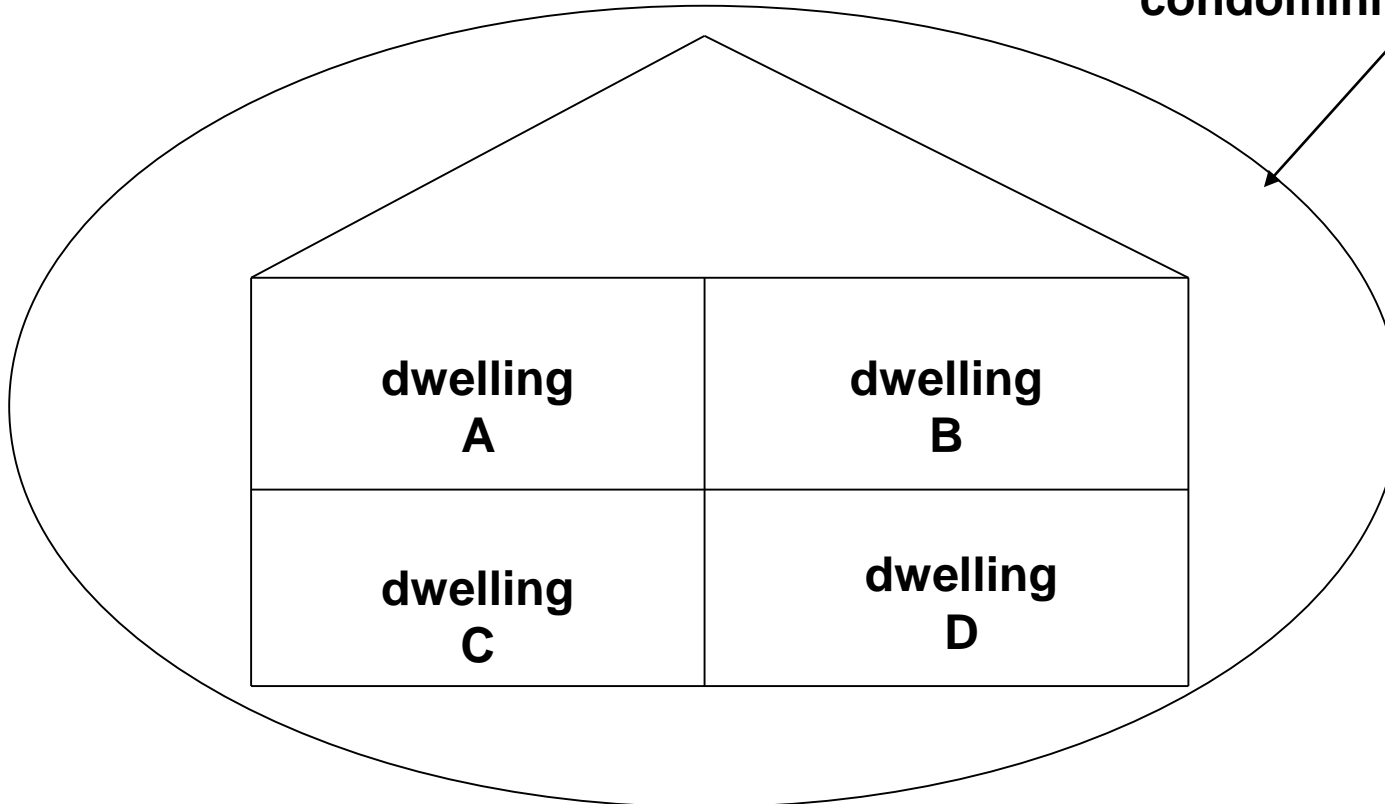




# Condominium (WEG - Apartment owners community )

A, B, C, D = owner, owner-assembly

condominium



Decision-making body is the Owner-Assembly  
Housing management done by the Administrator

# Organization and structure

- The owner-assembly makes the main decisions.
- bigger decisions need usually a 100% agreement
- The assembly have to appoint an administrator
- The administrator represents the interest of the community.

## The administrator :

Implementation of decisions of the homeowners

Maintenance and repair of beneficial ownership

Management of collection of the payments

➤ running costs

➤ maintenance reserve fund

Establishment of a business plan



# Organization and structure



- Community property (wall, roof, window, balcony, electricity, gas, waterinstallation ...)
- Special property (dwelling ownership)
- Fractional property (common space, basement garage)

Quelle: Deutsche Annington

- In general the condominium it is a good model to form property
- Problems occur:
  - if the ownercommunity needs large financial sums for the overall housemodernization
  - if the ownercommunity property is affected (electricity, gas, waterinstallation)
  - if the fractional property is affected
  - fixing the contribution for the maintenance reserve fund
- With the amendment of the Condominium Act in 2007 the Condominium is a (part) lawsubject and can take loans. But in most cases so far only in theory. Only a few banks grant loans to the WEG. Even If every owner is jointly and severally liable they get the loan.
- A Change in the Condominium Act in 2009 allows a 75% agreement in the owner-assembly in cases of energetic modernization. The 25% part is forced to render the financial contributions, regardless of the financial recourse of the owner. (danger of sequestration)

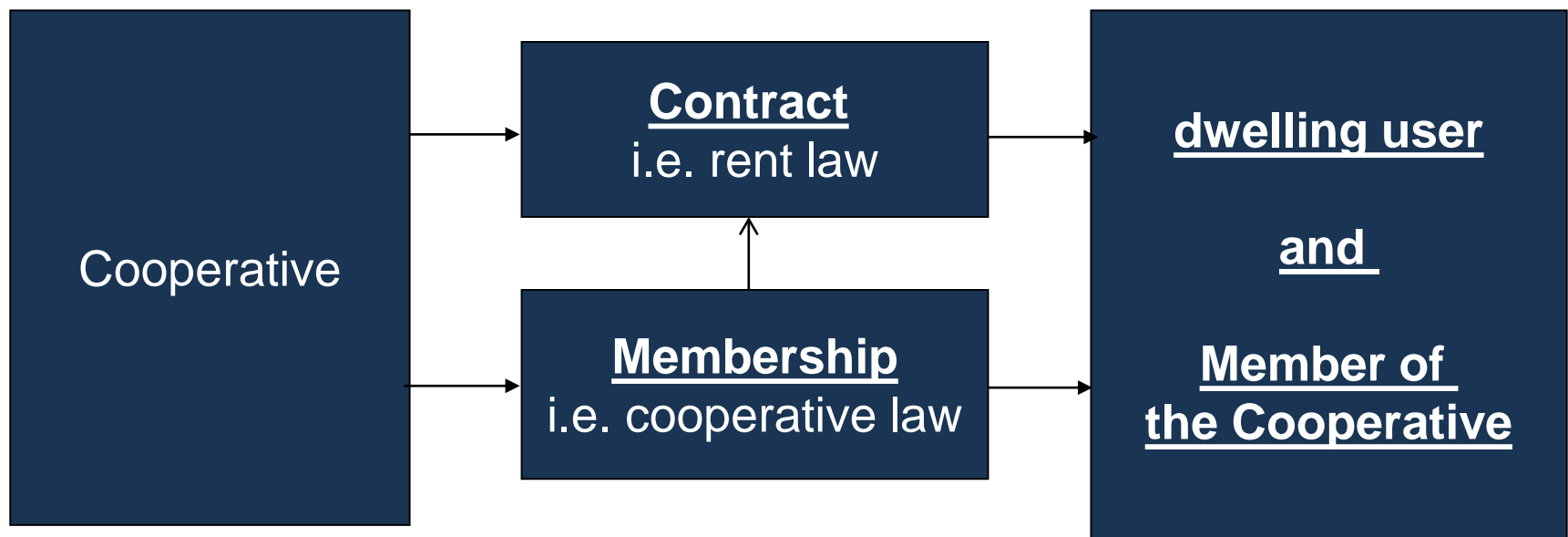
Advantage:

- The Cooperative is a separate legal entity

The Cooperative:

- can purchase even rights and obligations
- can have their own assets
- can have their own liabilities
- can become insolvent
- can be dissolved by a decision (liquidation without insolvency)
- need revenue to cover the costs
- must belong to an Association of examination
- have to check the finance regularly (different period, different size)

- The Member is to the Cooperative in two relationships:





# Cooperatives

the "ownership"

- members have only contractual usage rights on the basis of the Statute, no captive termination by the Cooperative , "solidified" residential/rental (big difference to the condominium, saver)
- members get back only the percentage share from the cooperative, no participation on reserves; the share of the cooperative may be "lost"



- In general it is good and save model to form property
- Problems occur:
  - if you want to get into a cooperative (dwelling), because of the share you have to pay
  - sometimes of the very long waiting lists

**Dipl.-Ing. Fabian Viehrig**

*Referat Energie, Technik, Normung*

[viehrig@gdw.de](mailto:viehrig@gdw.de)  
+4930 / 82403-173