



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3577

Introduced 2/22/2021, by Rep. Carol Ammons

SYNOPSIS AS INTRODUCED:

805 ILCS 317/12 new
805 ILCS 317/16 new
805 ILCS 317/21 new
805 ILCS 317/22 new
805 ILCS 317/25
805 ILCS 317/35
805 ILCS 317/36 new
805 ILCS 317/37 new
805 ILCS 317/60
805 ILCS 317/61 new
805 ILCS 317/62 new
805 ILCS 317/63 new

Amends the Limited Worker Cooperative Association Act. Incorporates provisions of the Limited Liability Company Act relating to: the powers of the Secretary of State; names of associations; required forms and the filing of those forms; contents of cooperative agreements; fees; termination; procedures of administrative dissolution; annual reports; and reinstatements.

LRB102 13245 JLS 18589 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Limited Worker Cooperative Association Act
5 is amended by changing Sections 25, 35, and 60 and by adding
6 Sections 12, 16, 21, 22, 36, 37, 61, 62, and 63 as follows:

7 (805 ILCS 317/12 new)

8 Sec. 12. Powers of Secretary of State and rulemaking.

9 (a) The Secretary of State shall have the power and
10 authority reasonably necessary to administer this Act
11 efficiently and to perform the duties imposed in this Act. The
12 Secretary of State's function under this Act is to be a central
13 depository for the articles of organization and applications
14 for admission required by this Act and to record the assumed
15 names used by limited worker cooperative associations.

16 (b) The Secretary of State shall have the power and
17 authority to adopt rules, in accordance with the Illinois
18 Administrative Procedure Act, necessary to administer this Act
19 efficiently and to perform the duties imposed in this Act.

20 (805 ILCS 317/16 new)

21 Sec. 16. Application of the Limited Liability Company Act.

22 The Limited Liability Company Act applies to limited worker

1 cooperative associations, and they shall enjoy the powers and
2 privileges and be subject to the duties, restrictions, and
3 liabilities of limited liability companies, except where
4 inconsistent with the letter and purpose of this Act. This Act
5 shall take precedence in the event of any conflict with the
6 provisions of the Limited Liability Company Act or other laws.

7 (805 ILCS 317/21 new)

8 Sec. 21. Limited worker cooperative association; name.

9 (a) The name of each limited worker cooperative
10 association organized, existing, or subject to the provisions
11 of this Act:

12 (1) shall contain the terms "Limited Worker
13 Cooperative Association", "LWCA", or "L.W.C.A."

14 (2) may not contain a word or phrase, or an
15 abbreviation or derivation thereof, the use of which is
16 prohibited or restricted by any other statute of this
17 State unless the restriction has been complied with;

18 (3) shall consist of letters of the English alphabet,
19 Arabic or Roman numerals, or symbols capable of being
20 readily reproduced by the Office of the Secretary of
21 State;

22 (4) shall not contain any of the following terms:
23 "Corporation", "Corp.", "Incorporated", "Inc.", "Ltd.",
24 "Co.", "LLC", "Limited Partnership", or "L.P.";

25 (5) shall be the name under which the limited worker

1 cooperative association transacts business in this State
2 unless the limited worker cooperative association also
3 elects to adopt an assumed name or names as provided in
4 this Act; however, the limited worker cooperative
5 association may use any divisional designation or trade
6 name without complying with the requirements of this Act
7 if the limited worker cooperative association also clearly
8 discloses its name;

9 (6) shall not contain any word or phrase that
10 indicates or implies that the limited worker cooperative
11 association is authorized or empowered to be in the
12 business of a corporate fiduciary unless otherwise
13 permitted by the Secretary of Financial and Professional
14 Regulation under Section 1-9 of the Corporate Fiduciary
15 Act. The word "trust", "trustee", or "fiduciary" may be
16 used by a limited worker cooperative association only if
17 it has first complied with Section 1-9 of the Corporate
18 Fiduciary Act; and

19 (7) shall contain the word "trust", if it is a limited
20 worker cooperative association organized for the purpose
21 of accepting and executing trusts.

22 (b) Nothing in this Act shall abrogate or limit the common
23 law or statutory law of unfair competition or unfair trade
24 practices, nor derogate from the common law or principles of
25 equity or the statutes of this State or of the United States of
26 America with respect to the right to acquire and protect

1 copyrights, trade names, trademarks, service marks, service
2 names, or any other right to the exclusive use of names or
3 symbols.

4 (c) The name shall be distinguishable upon the records in
5 the Office of the Secretary of State from the name of all of
6 the following:

7 (1) Any limited worker cooperative that has articles
8 of organization filed with the Secretary of State.

9 (2) Any limited liability company that has articles of
10 organization filed with the Secretary of State under
11 Section 5-5 of the Limited Liability Company Act.

12 (3) Any foreign limited liability company admitted to
13 transact business in this State.

14 (4) Any name for which an exclusive right has been
15 reserved in the Office of the Secretary of State under
16 Section 1-15 of the Limited Liability Company Act.

17 (5) Any assumed name that is registered with the
18 Secretary of State under Section 1-20 of the Limited
19 Liability Company Act.

20 (6) Any corporate name or assumed corporate name of a
21 domestic or foreign corporation subject to the provisions
22 of Section 4.05 of the Business Corporation Act of 1983 or
23 Section 104.05 of the General Not For Profit Corporation
24 Act of 1986.

25 (d) Subsection (c) of this Section shall not apply if the
26 organizer files with the Secretary of State a certified copy

1 of a final judgment of a court establishing the prior right of
2 the applicant to the use of that name in this State.

3 (e) The Secretary of State shall determine whether a name
4 is distinguishable from another name for the purposes of this
5 Act. Without excluding other names that may not constitute
6 distinguishable names in this State, a name is not considered
7 distinguishable, for purposes of this Act, solely because it
8 contains one or more of the following:

9 (1) The word "limited", "worker", "cooperative", or
10 "association" or an abbreviation of one of those words.

11 (2) Articles, conjunctions, contractions,
12 abbreviations, or different tenses or number of the same
13 word.

14 (805 ILCS 317/22 new)

15 Sec. 22. Forms, execution, acknowledgment, and filing.

16 (a) All reports required by this Act to be filed in the
17 Office of the Secretary of State shall be made on forms
18 prescribed and furnished by the Secretary of State. Forms for
19 all other documents to be filed in the Office of the Secretary
20 of State shall be furnished by the Secretary of State upon
21 request.

22 (b) Whenever any provision of this Act specifically
23 requires any document to be executed by the limited worker
24 cooperative association in accordance with this Section,
25 unless otherwise specifically stated in this Act and subject

1 to any additional provisions of this Act, the document shall
2 be signed as follows:

3 (1) The initial articles of organization shall be
4 signed by the organizer or organizers.

5 (2) A document filed on behalf of a dissolved limited
6 worker cooperative association that has no members must be
7 signed by the person winding up the association's
8 activities under Section 35-4 of the Limited Liability
9 Company Act.

10 (3) Any other document must be signed by a person
11 authorized by the limited worker cooperative association
12 to sign it.

13 (c) The name of a person signing the document and the
14 capacity in which the person signs shall be stated beneath or
15 opposite the person's signature.

16 (d) The execution of any document required by this Act by a
17 person constitutes an affirmation under the penalties of
18 perjury that the facts stated therein are true and that the
19 person has authority to execute the document.

20 (e) When filed in the Office of the Secretary of State, an
21 authorization, including a power of attorney, to sign a record
22 must be in writing, then sworn to, verified, or acknowledged.

23 (805 ILCS 317/25)

24 Sec. 25. Articles of organization. ~~(a)~~ The articles of
25 organization of a limited worker cooperative association shall

1 state:

2 (1) the domestic entity name of the limited worker
3 cooperative association;

4 (2) the purposes for which the limited worker
5 cooperative association is formed, which may be for any
6 lawful purpose;

7 (3) the registered agent name and registered agent
8 address of the association's initial registered agent;

9 (4) the street address and, if different, mailing
10 address of the association's initial principal office;

11 (5) the true name and street address and, if
12 different, mailing address of each organizer; ~~and~~

13 (6) any other provision, not inconsistent with law,
14 that the worker-members, members, or organizers elect to
15 set out in the articles for the regulation of the internal
16 affairs of the worker cooperative, including any
17 provisions that, under this Act, are required or permitted
18 to be set out in the cooperative agreement; and bylaws of
19 ~~the worker cooperative.~~

20 (7) a statement that the association is a worker
21 cooperative or a collective worker cooperative, if
22 applicable.

23 (b) A limited worker cooperative association is organized
24 at the time the articles of organization are filed by the
25 Secretary of State or at any later time, not more than 60 days
26 after the filing of the articles of organization, specified in

1 the articles of organization.

2 (Source: P.A. 101-292, eff. 1-1-20; revised 9-4-20.)

3 (805 ILCS 317/35)

4 Sec. 35. Cooperative agreement ~~Bylaws~~.

5 (a) A cooperative agreement ~~Bylaws~~ shall include:

6 (1) a statement of the capital structure of the
7 limited worker cooperative association;

8 (2) the classes or other types of members' interests
9 and the relative rights, preferences, privileges, and
10 restrictions granted to or imposed upon each class or
11 other type of member's interest, including:

12 (A) a statement concerning the manner in which
13 profits and losses are allocated and distributions are
14 made among members and, if community investors are
15 authorized, the manner in which profits and losses are
16 allocated and how distributions are made among
17 investor members and between members and community
18 investors;

19 (B) a statement designating voting and other
20 governance rights of each class or other type of
21 members' interests and, if relevant, community
22 investors, including which members have voting power
23 and any restriction on voting power;

24 (3) a statement of the method for admission of
25 members;

1 (4) a statement that a member's interest is
2 transferable, if it is to be transferable, and a statement
3 of the conditions upon which it may be transferred;

4 (5) a statement concerning:

5 (A) whether persons that are not members but
6 conduct business with the association may be permitted
7 to share in allocations of profits and losses and
8 receive distributions; and

9 (B) the manner in which profits and losses are
10 allocated and distributions are made with respect to
11 those persons; and

12 (6) a statement of the number and terms of directors
13 or the method by which the number and terms are
14 determined; and

15 (7) a statement addressing members' contributions.

16 (b) A cooperative agreement ~~Bylaws~~ may contain any other
17 provision for managing and regulating the affairs of the
18 association.

19 (c) The cooperative agreement may not:

20 (1) unreasonably restrict a right to information or
21 access to records available under Section 1-40 or Section
22 10-15 of the Limited Liability Company Act;

23 (2) vary the right to expel a member in an event
24 specified in subdivision (6) of Section 35-45 of the
25 Limited Liability Company Act;

26 (3) vary the requirement to wind up the limited worker

1 cooperative association's business in a case specified in
2 subdivision (4), (5), or (6) of subsection (a) of Section
3 35-1 of the Limited Liability Company Act;

4 (4) restrict rights of a person, other than a
5 director, member, and transferee of a member's
6 distributional interest, under this Act;

7 (5) restrict the power of a member to dissociate under
8 Section 35-50 of the Limited Liability Company Act,
9 although a cooperative agreement may determine whether a
10 dissociation is wrongful under Section 35-50 of the
11 Limited Liability Company Act;

12 (6) eliminate or reduce the obligation of good faith
13 and fair dealing under subsection (d) of Section 15-3 of
14 the Limited Liability Company Act, but the cooperative
15 agreement may determine the standards by which the
16 performance of the member's duties or the exercise of the
17 member's rights is to be measured;

18 (7) eliminate, vary, or restrict the priority of a
19 statement of authority over provisions in the articles of
20 organization as provided in subsection (h) of Section
21 13-15 of the Limited Liability Company Act;

22 (8) vary the law applicable under Section 1-65 of the
23 Limited Liability Company Act;

24 (9) vary the power of the court under Section 5-50 of
25 the Limited Liability Company Act; or

26 (10) restrict the right to approve a merger,

1 conversion, or domestication under Article 37 of the
2 Limited Liability Company Act or the Entity Omnibus Act of
3 a member that will have personal liability with respect to
4 a surviving, converted, or domesticated organization.

5 (d) The cooperative agreement may:

6 (1) restrict or eliminate a fiduciary duty, other than
7 the duty of care described in subsection (c) of Section
8 15-3 of the Limited Liability Company Act, but only to the
9 extent the restriction or elimination in the cooperative
10 agreement is clear and unambiguous;

11 (2) identify specific types or categories of
12 activities that do not violate any fiduciary duty; and

13 (3) alter the duty of care, except to authorize
14 intentional misconduct or knowing violation of law.

15 (e) The cooperative agreement may specify the method by
16 which a specific act or transaction that would otherwise
17 violate the duty of loyalty may be authorized or ratified by
18 one or more disinterested and independent persons after full
19 disclosure of all material facts.

20 (f) The cooperative agreement may alter or eliminate the
21 right to payment or reimbursement for a member or director
22 provided by Section 15-7 of the Limited Liability Company Act
23 and may eliminate or limit a member's or director's liability
24 to the limited worker cooperative association and members for
25 money damages, except for:

26 (1) subject to subsections (d) and (e) of this

1 Section, breach of the duties as required in subdivisions
2 (1), (2), and (3) of subsection (b) of Section 15-3 of the
3 Limited Liability Company Act;

4 (2) a financial benefit received by the member or
5 director to which the member or director is not entitled;

6 (3) a breach of a duty under Section 25-35 of the
7 Limited Liability Company Act;

8 (4) intentional infliction of harm on the association
9 or a member; or

10 (5) an intentional violation of criminal law.

11 (g) A limited worker cooperative association is bound by
12 and may enforce the cooperative agreement, whether or not the
13 association has itself manifested assent to the cooperative
14 agreement.

15 (h) A person that becomes a member of a limited worker
16 cooperative association is deemed to assent to the cooperative
17 agreement.

18 (i) A cooperative agreement may be entered into before,
19 after, or at the time of filing of articles of organization
20 and, whether entered into before, after, or at the time of the
21 filing, may be made effective as of the time of formation of
22 the limited worker cooperative association or as of the time
23 or date provided in the cooperative agreement.

24 (Source: P.A. 101-292, eff. 1-1-20.)

1 Sec. 36. Annual reports.

2 (a) A limited worker cooperative association organized
3 under the laws of this State shall file, within the time
4 prescribed by this Act, an annual report setting forth all of
5 the following:

6 (1) The name of the limited worker cooperative
7 association.

8 (2) The address, including street and number or rural
9 route number, of its registered office in this State and
10 the name of its registered agent at that address.

11 (3) The address, including street and number or rural
12 route number of its principal place of business.

13 (4) The name and business address of all of the
14 directors and any member having the authority of a
15 director.

16 (5) Additional information that may be necessary or
17 appropriate in order to enable the Secretary of State to
18 administer this Act and to verify the proper amount of
19 fees payable by the limited worker cooperative
20 association.

21 The annual report shall be made on forms prescribed and
22 furnished by the Secretary of State, and the information
23 therein required by paragraphs (1) through (4) of this
24 subsection (a), both inclusive, shall be given as of the date
25 of execution of the annual report. The annual report shall be
26 executed by a director or, if none, a member designated by the

1 members pursuant to limited worker cooperative association
2 action properly taken under Section 15-1 of the Limited
3 Liability Company Act.

4 (b) The annual report, together with all fees and charges
5 prescribed by this Act, shall be delivered to the Secretary of
6 State within 60 days immediately preceding the first day of
7 the anniversary month. Proof to the satisfaction of the
8 Secretary of State that, before the first day of the
9 anniversary month of the limited worker cooperative
10 association, the report, together with all fees and charges as
11 prescribed by this Act, was deposited in the United States
12 mail in a sealed envelope, properly addressed, with postage
13 prepaid, shall be deemed a compliance with this requirement.
14 If the Secretary of State finds that the report conforms to the
15 requirements of this Act, he or she shall file it. If the
16 Secretary of State finds that it does not so conform, he or she
17 shall promptly return it to the limited worker cooperative
18 association for any necessary corrections, in which event the
19 penalties prescribed for failure to file the report within the
20 time provided shall not apply if the report is corrected to
21 conform to the requirements of this Act and returned to the
22 Secretary of State within 60 days of the original due date of
23 the report.

24 (805 ILCS 317/37 new)

25 Sec. 37. Fees.

1 (a) The Secretary of State shall charge and collect in
2 accordance with the provisions of this Act and rules adopted
3 under its authority all of the following:

4 (1) Fees for filing documents.

5 (2) Miscellaneous charges.

6 (3) Fees for the sale of lists of filings and for
7 copies of any documents.

8 (b) The Secretary of State shall charge and collect for
9 all of the following:

10 (1) Filing articles of organization, \$150.

11 (2) Filing amendments, \$50.

12 (3) Filing a statement of termination, \$5.

13 (4) Filing an application for use of an assumed name,
14 the amount under the fee schedule in Section 50-10 of the
15 Limited Liability Company Act.

16 (5) Filing an application for change of assumed name,
17 \$25.

18 (6) Filing an application for cancellation of an
19 assumed name, \$5.

20 (7) Filing an annual report of a limited worker
21 cooperative association, \$75, if filed as required by this
22 Act, plus a penalty if delinquent.

23 (8) Filing an application for reinstatement of a
24 limited worker cooperative association, \$200.

25 (9) Filing articles of merger, \$100 plus \$50 for each
26 party to the merger in excess of the first 2 parties.

1 (10) Filing a statement of change of address of
2 registered office or change of registered agent, or both,
3 \$25.

4 (11) Filing, amending, or cancelling a statement of
5 authority, \$50.

6 (12) Filing, amending, or cancelling a statement of
7 denial, \$10.

8 (c) The Secretary of State shall charge and collect for
9 furnishing a copy or certified copy of any document,
10 instrument, or paper relating to a limited worker cooperative
11 association, \$25.

12 (805 ILCS 317/60)

13 Sec. 60. Dissolution and termination. A limited worker
14 cooperative association may be dissolved ~~only~~ by ~~either~~ (1) a
15 two-thirds vote of the assembly, ~~or~~ (2) a majority vote of the
16 assembly as ~~of a supermajority threshold~~ stated in the
17 cooperative agreement, or (3) administratively bylaws that is
18 ~~more than two thirds~~. The vote shall be in accordance with
19 Section 55, and upon dissolution of its business and
20 activities must be wound up and terminated in the manner
21 provided under the Limited Liability Company Act for a limited
22 liability company.

23 (Source: P.A. 101-292, eff. 1-1-20.)

24 (805 ILCS 317/61 new)

1 Sec. 61. Grounds for administrative dissolution. The
2 Secretary of State may dissolve any limited worker cooperative
3 association administratively if:

4 (1) it has failed to file its annual report and pay its
5 fee as required by this Act before the first day of the
6 anniversary month or has failed to pay any required fees,
7 penalties, or charges;

8 (2) it has failed to file in the Office of the
9 Secretary of State any report after the expiration of the
10 period prescribed for filing the report;

11 (3) it has misrepresented any material matter in any
12 application, report, affidavit, or other document
13 submitted by the limited worker cooperative association;

14 (4) it has failed to appoint and maintain a registered
15 agent in Illinois;

16 (5) a director or member to whom interrogatories have
17 been propounded by the Secretary of State as provided in
18 Section 5-60 of the Limited Liability Company Act fails to
19 answer the interrogatories fully and to timely file the
20 answer in the Office of the Secretary of State; or

21 (6) it has tendered payment to the Secretary of State
22 which is returned due to insufficient funds, a closed
23 account, or for any other reason, and acceptable payment
24 has not been subsequently tendered.

1 Sec. 62. Procedure for administrative dissolution.

2 (a) After the Secretary of State determines that one or
3 more grounds, as set forth in Section 35-25 of the Limited
4 Liability Company Act, exist for the administrative
5 dissolution of a limited worker cooperative association, the
6 Secretary of State shall send a notice of delinquency by
7 regular mail to the delinquent limited worker cooperative
8 association at its registered office or, if the limited worker
9 cooperative association has failed to maintain a registered
10 office, then to the last known address shown on the records of
11 the Secretary of State for the principal place of business of
12 the limited worker cooperative association.

13 (b) If the limited worker cooperative association does not
14 correct the default described in paragraph (1) or (2) of
15 Section 35-25 of the Limited Liability Company Act within 120
16 days following the date of the notice of delinquency, the
17 Secretary of State shall thereupon dissolve the limited worker
18 cooperative association by issuing a certificate of
19 dissolution that recites the grounds for dissolution and its
20 effective date. If the limited worker cooperative association
21 does not correct the default described in paragraph (2.5),
22 (3), (4), or (5) of Section 35-25 of the Limited Liability
23 Company Act within 60 days following the notice, the Secretary
24 of State shall dissolve the limited worker cooperative
25 association by issuing a certificate of dissolution that
26 recites the grounds for dissolution and its effective date.

1 The Secretary of State shall file the original of the
2 certificate in his or her office and mail one copy to the
3 limited worker cooperative association at its registered
4 office or, if the limited worker cooperative association has
5 failed to maintain a registered office, then to the last known
6 address shown on the records of the Secretary of State for the
7 principal place of business of the limited worker cooperative
8 association.

9 (c) Upon the administrative dissolution of a limited
10 worker cooperative association, a dissolved limited worker
11 cooperative association shall continue for only the purpose of
12 winding up its business. A dissolved limited worker
13 cooperative association may take all action authorized under
14 Section 1-30 of the Limited Liability Company Act or otherwise
15 necessary or appropriate to wind up its business and affairs
16 and terminate.

17 (805 ILCS 317/63 new)

18 Sec. 63. Reinstatement following dissolution or
19 termination.

20 (a) A limited worker cooperative association dissolved or
21 terminated under Section 60 may be reinstated by the Secretary
22 of State following the date of issuance of the notice of
23 dissolution or statement of termination upon:

24 (1) The filing of an application for reinstatement.

25 (2) The filing with the Secretary of State by the

1 limited worker cooperative association of all reports then
2 due and theretofore becoming due.

3 (3) The payment to the Secretary of State by the
4 limited worker cooperative association of all fees and
5 penalties then due and theretofore becoming due.

6 (b) The application for reinstatement shall be executed
7 and filed in duplicate in accordance with Section 25 of this
8 Act and shall set forth all of the following:

9 (1) The name of the limited worker cooperative
10 association at the time of the issuance of the notice of
11 dissolution or statement of termination.

12 (2) If the name is not available for use as determined
13 by the Secretary of State at the time of filing the
14 application for reinstatement, the name of the limited
15 worker cooperative association as changed, provided that
16 any change of name is properly effected under Section 1-10
17 and Section 5-25 of the Limited Liability Company Act.

18 (3) The date of issuance of the notice of dissolution
19 or statement of termination.

20 (4) The address, including street and number or rural
21 route number of the registered office of the limited
22 worker cooperative association upon reinstatement thereof
23 and the name of its registered agent at that address upon
24 the reinstatement of the limited worker cooperative
25 association, provided that any change from either the
26 registered office or the registered agent at the time of

1 dissolution is properly reported under Section 1-35 of the
2 Limited Liability Company Act.

3 (c) When a dissolved or terminated limited worker
4 cooperative association has complied with the provisions of
5 the Section, the Secretary of State shall file the application
6 for reinstatement.

7 (d) Upon the filing of the application for reinstatement,
8 the limited worker cooperative association existence shall be
9 deemed to have continued without interruption from the date of
10 the issuance of the notice of dissolution or statement of
11 termination. The limited worker cooperative association shall
12 stand revived with the powers, duties, and obligations as if
13 it had not been dissolved or terminated. All acts and
14 proceedings of its members, directors, officers, employees,
15 and agents, acting or purporting to act in that capacity, and
16 which would have been legal and valid but for the dissolution
17 or termination, shall stand ratified and confirmed.

18 (e) Without limiting the generality of subsection (d),
19 upon the filing of the application for reinstatement, no
20 member, director, or officer shall be personally liable for
21 the debts and liabilities of the limited worker cooperative
22 association incurred during the period of dissolution or
23 termination by reason of the fact that the limited worker
24 cooperative association was dissolved or terminated at the
25 time the debts or liabilities were incurred.