



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB5905

by Rep. Will Guzzardi

SYNOPSIS AS INTRODUCED:

New Act
805 ILCS 310/Act rep.

Creates the Illinois Cooperative Act. Repeals the Co-operative Act on January 1, 2020. Provides for the organization, operation, and regulation of cooperatives. Sets forth requirements for articles of incorporation, amendments, number of incorporators, and voting rights. Provides for regulation by the Secretary of State. Sets forth requirements for directors. Defines terms. Provides for liquidation, consolidation, and dissolution of cooperatives.

LRB099 18402 JLS 42778 b

1 AN ACT concerning business.

2 WHEREAS, The purpose of this Act is to promote the growth
3 and development of cooperative enterprises in the State of
4 Illinois; and

5 WHEREAS, The General Assembly acknowledges that such
6 democratically owned and controlled enterprises are based on
7 the values of self-help, self-responsibility, democracy,
8 equality, equity, and solidarity, believes that those values
9 deserve the support of our statutes, and therefore seeks to
10 modernize the laws governing cooperatives so that enterprises
11 operating in this manner may more easily form, expand, create
12 jobs, and strengthen our economy; therefore

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

15 Section 1. Short title. This Act may be cited as the
16 Illinois Cooperative Act.

17 Section 5. Definitions. In this Act:

18 "Association" means any corporation organized under this
19 Act.

20 "Board" means the board of directors of an association.

21 "Cooperative" means a domestic association or a foreign
22 association organized under this Act.

1 "Entity", except as otherwise provided, means a foreign
2 association, a foreign or domestic corporation other than a
3 cooperative, a foreign or domestic limited liability company, a
4 foreign or domestic limited liability partnership, a foreign or
5 domestic limited partnership, or any other entity.

6 "Foreign association" means a corporation organized under
7 the cooperative laws of another state or the District of
8 Columbia or a foreign corporation that operates on a
9 cooperative basis that is organized under the corporation laws
10 of another state, the District of Columbia, or the United
11 States.

12 "Marketing agreement" means an agreement, contract, or
13 other arrangement between a cooperative and a member in which
14 the member agrees to market all or a part of the products or
15 produce produced by the member, or agrees to purchase all or a
16 part of the member's requirements for inputs, services, or
17 supplies.

18 "Member" means a patron of a cooperative who has been
19 qualified and accepted into membership in a cooperative.

20 "Membership stock" means any class of stock or other equity
21 interest in a cooperative, continuous ownership of which is
22 required for membership in the cooperative.

23 "Patron" means a person with whom a cooperative conducts
24 business and has made an enforceable agreement to allocate and
25 distribute a patronage dividend or per-unit retain allocation,
26 in accordance with federal income tax law.

1 "Patronage stock" means any stock or other equity interest
2 in a cooperative that was originally issued by the cooperative
3 with respect to patronage transactions.

4 "Person" includes a natural person, partnership,
5 corporation, cooperative, or other entity.

6 "Producer" means a person engaged in the production of
7 agricultural products for the market.

8 Section 10. Purposes.

9 (a) An association may be organized under this Act for any
10 lawful purpose permitted to corporations by the laws of this
11 State, except any such purpose that is inconsistent with the
12 provisions of this Act. This Section does not authorize any
13 professional services otherwise prohibited by law.

14 (b) Associations are organized for the primary purpose of
15 providing services to their members, under such members'
16 democratic ownership and control.

17 (c) A municipal power agency organized under the Illinois
18 Municipal Code is not an association for the purposes of this
19 Act.

20 Section 15. Powers of an association. An association
21 incorporated under this Act shall have the following powers:

22 (1) It may make contracts, incur liabilities, and
23 borrow money; issue capital stock and other equity
24 interests and issue certificates therefor; acquire

1 property; and dispose of, mortgage, pledge, lease, or
2 otherwise use in any manner, any of its property, or any
3 interest in its property, wherever situated.

4 (2) It may invest its funds, lend money for its
5 purposes, and hold any property as security for repayment.

6 (3) It may act as the agent or representative of any
7 members or other patrons in any activities authorized by
8 this Act.

9 (4) It may conduct its business and affairs, have
10 offices, and exercise its power in the United States or in
11 any foreign country.

12 (5) It may establish reserves and invest these funds.

13 (6) It may buy, hold, and exercise all privileges of
14 ownership over such real or personal property as is
15 necessary, convenient, or incidental to the conduct of any
16 authorized business of the association.

17 (7) It may establish, secure, own, and develop patents,
18 trademarks, copyrights, service marks, and other
19 intellectual property.

20 (8) Notwithstanding the provisions of the Uniform
21 Disposition of Unclaimed Property Act, it may effectuate
22 the forfeiture of any unclaimed stock or other equity
23 interests, dividends, and patronage allocations, for which
24 the owner cannot be found after a period of 3 years. Notice
25 of the existence of unclaimed stock or other equity
26 interests and a request for written acknowledgment from the

1 owner to the association shall be evidence of a bona fide
2 attempt to deliver the unclaimed stock or other equity
3 interests to the owner. If the notice is not acknowledged
4 within 30 days after the notice is sent or within the
5 period specified in the notice, if longer, all such
6 unclaimed stock or other equity interests specified in the
7 notice are forfeited and become the property of the
8 association.

9 (9) It may make donations for charitable, scientific,
10 educational, community development, or religious purposes,
11 and may use all or part of the funds forfeited to the
12 association under item (8) for these purposes.

13 (10) It may do everything necessary, suitable, or
14 proper for the accomplishment of any of the purposes
15 enumerated in this Section.

16 In addition it may exercise and possess all powers, rights,
17 and privileges necessary or incidental to the purposes for
18 which the association is organized or to the activities in
19 which it is engaged, and any other powers, rights, and
20 privileges granted to corporations by the laws of this State,
21 except as are inconsistent with the provisions of this Act.

22 Section 20. Use of words in name; prohibition.

23 (a) The name of any association organized under this Act
24 shall include the word or abbreviation "cooperative," "coop,"
25 "co-operative", "co-op", "association", or "assn."

1 (b) No corporation or other person organized or applying to
2 do business in this State shall use the word or abbreviation
3 "cooperative," "coop," "co-operative," or "co-op" as a part of
4 its corporate or other business name or title, unless at least
5 one of the following applies:

6 (1) It is organized under this Act or has converted to
7 an association under this Act.

8 (2) It is organized and operating on a cooperative
9 basis under the General Not For Profit Corporation Act of
10 1986 or the Agricultural Co-Operative Act, or it is a
11 corporation organized and operating under the Business
12 Corporation Act of 1983 for the purpose of ownership or
13 administration of residential property on a cooperative
14 basis.

15 (3) It is a foreign corporation that is organized and
16 operating on a cooperative basis as permitted by the laws
17 under which it is organized that has complied with the
18 provisions of this Act.

19 (4) It is organized and operating in accordance with
20 the cooperative laws of another state, the District of
21 Columbia, or the United States and has complied with the
22 provisions of this Act.

23 (5) It is a state or federally chartered credit union.

24 Section 21. Association name.

25 (a) The name of an association organized, existing, or

1 subject to the provisions of this Act shall be distinguishable
2 upon the records in the Office of the Secretary of State from
3 the name or assumed name of any domestic association or limited
4 liability company organized under the Limited Liability
5 Company Act, whether for profit or not for profit, existing
6 under any Act of this State, or of the name or assumed name of
7 any foreign association or foreign limited liability company
8 registered under the Limited Liability Company Act, whether for
9 profit or not for profit, authorized to transact business in
10 this State, or a name the exclusive right to which is, at the
11 time, reserved or registered in the manner provided in Section
12 4.10 or 4.25 of the Business Corporation Act of 1983 or Section
13 1-15 of the Limited Liability Company Act, except that, subject
14 to the discretion of the Secretary of State, a foreign
15 association that has a name prohibited by this subsection may
16 be issued a certificate of authority to transact business in
17 this State, if the foreign association:

18 (i) elects to adopt an assumed corporate name or names
19 in accordance with Section 4.15 of the Business Corporation
20 Act of 1983; and

21 (ii) agrees in its application for a certificate of
22 authority to transact business in this State only under
23 such assumed association name or names.

24 (b) The Secretary of State shall determine whether a name
25 is "distinguishable" from another name for purposes of this
26 Act. Without excluding other names which may not constitute

1 distinguishable names in this State, a name is not considered
2 distinguishable, for purposes of this Act, solely because it
3 contains one or more of the following:

4 (1) the word "cooperative", "coop", "co-operative",
5 "co-op", "association," or "assn."; or

6 (2) articles, conjunctions, contractions,
7 abbreviations, different tenses or number of the same word.

8 (c) Nothing in this Section shall:

9 (1) Require any domestic association existing or any
10 foreign entity having a certificate of authority on the
11 effective date of this Act to modify or otherwise change
12 its name or assumed name, if any.

13 (2) Abrogate or limit the common law or statutory law
14 of unfair competition or unfair trade practices, nor
15 derogate from the common law or principles of equity or the
16 statutes of this State or of the United States with respect
17 to the right to acquire and protect copyrights, trade
18 names, trademarks, service names, service marks, or any
19 other right to the exclusive use of names or symbols.

20 Section 22. Powers of Secretary of State. The Secretary of
21 State shall have the power and authority reasonably necessary
22 to administer this Act efficiently and to perform the duties
23 therein imposed. The Secretary of State shall have the power to
24 promulgate, amend, or repeal rules and regulations deemed
25 necessary to efficiently administer this Act. The rules adopted

1 by the Secretary of State under this Act shall be effective in
2 the manner provided for in the Illinois Administrative
3 Procedure Act.

4 Section 23. List of associations; exchange of information.
5 The Secretary of State shall publish annual and daily lists of
6 associations formed under this Act in the same manner as is
7 provided in Section 1.25 of the Business Corporation Act of
8 1983.

9 Section 25. Number of incorporators; registered agent.

10 (a) Two or more individuals may form an association under
11 this Act.

12 (b) An association shall have and maintain a registered
13 agent upon whom any process, notice, or demand against the
14 association may be served. The agent shall be one of the
15 following:

16 (1) A natural person who is a resident of this State.

17 (2) A domestic or foreign corporation, limited
18 liability company, limited partnership, limited liability
19 partnership, or association authorized to transact
20 business or exercise privileges in this State that is
21 authorized by its statement of purpose to act as such
22 agent, having a business office identical with such
23 registered office.

24 (c) An association shall change its registered agent if the

1 office of registered agent shall become vacant for any reason
2 or if its registered agent becomes disqualified or
3 incapacitated to act or if the association revokes the
4 appointment of its registered agent.

5 (d) An association may change its registered agent by
6 executing and filing with the Secretary of State a statement
7 setting forth:

8 (1) The name of the association.

9 (2) The address, including street and number, or rural
10 route number, of its then registered office.

11 (3) If the address of its registered office is to be
12 changed, the address, including street and number, or rural
13 route number, to which the registered office is to be
14 changed.

15 (4) The name of its then registered agent.

16 (5) If its registered agent is to be changed, the name
17 of its successor registered agent.

18 (6) That the address of its registered office and the
19 address of the business office of its registered agent, as
20 changed, will be identical.

21 (7) That such change was authorized by resolution duly
22 adopted by the board of directors.

23 (e) The change of registered agent shall become effective
24 upon the filing of such statement by the Secretary of State.

25 Section 30. Articles of incorporation.

1 (a) The articles of incorporation of an association shall
2 set forth all of the following:

3 (1) The name of the association and the address of its
4 principal place of business.

5 (2) The association's purposes, as permitted by this
6 Act. It is sufficient to state in the articles that the
7 association may engage in any activity within the purposes
8 for which associations may be organized under this Act.

9 (3) The address, including street and number, of the
10 association's initial registered office in this State and
11 the name of its initial registered agent at that office.

12 (4) The names and addresses of the incorporators.

13 (5) The number of directors to be elected at the first
14 meeting of shareholders.

15 (6) Whether the association is organized with or
16 without capital stock and:

17 (A) if the association is organized without
18 capital stock, the articles shall set forth the rules
19 by which the property rights and interests of each
20 member are to be determined; and

21 (B) if the association is organized with capital
22 stock, the total amount of the stock which the
23 association is authorized to issue, the number and par
24 value of the shares, and dividend rights, if any; if
25 there is more than one class of stock, the articles
26 shall set forth a statement of the number of shares in

1 each class and a statement of the designations,
2 preferences, qualifications, limitations,
3 restrictions, and special or relative rights of the
4 shares in each class.

5 (7) If the association may issue shares of any
6 preferred or special class in series, the designation of
7 each series and a statement of the variations in the
8 relative rights and preferences of the different series, if
9 the same are fixed in the articles of incorporation, or a
10 statement of the authority vested in the board of directors
11 to establish series and determine the variations in the
12 relative rights and preferences of the different series.

13 (b) The articles may include additional provisions,
14 consistent with law, including provisions that are required or
15 permitted to be set forth in the bylaws. The articles may also
16 contain provisions relating to any Sections of this Act that
17 give discretion to the association to modify default rules or
18 to prohibit or permit certain actions, if and only if such
19 provisions are included in the articles, including, but not
20 limited to, subsection (e) of Section 40, subsection (g) of
21 Section 95, paragraph (b) (2) of Section 170, and subsection (e)
22 of Section 180.

23 (c) The articles shall be signed by the incorporators and
24 filed with the Secretary of State in accordance with Section
25 55. The legal existence of an association begins upon the
26 filing of the articles and, unless the articles provide

1 otherwise, its period of existence is perpetual.

2 Section 35. Amendment or restatement of articles.

3 (a) The articles of incorporation of an association may be
4 altered or amended at any annual meeting of the association or
5 at any special meeting called for that purpose, provided that
6 the text of the proposed change, or a general description of
7 the change, is contained in the notice of the meeting. An
8 amendment shall first be approved by two-thirds of the
9 directors and shall then be adopted by an affirmative vote of
10 60% of the member votes cast on the amendment or, if the
11 articles or bylaws provide or permit, by the affirmative vote
12 of a greater majority or by the affirmative vote of a simple
13 majority of all member votes eligible to be cast on the
14 amendment. Any association controlled directly and equally by
15 members, without a board of directors, shall vote as members
16 and need not first vote as directors.

17 (b) Amendments to the articles of incorporation, when so
18 adopted, shall be filed in accordance with Section 55.

19 (c) The board of an association may adopt a restatement of
20 the articles without a member vote if the restatement merely
21 incorporates amendments previously approved by the board and
22 adopted by the members. An association may, by action taken in
23 the manner required for an amendment, adopt restated articles
24 that contain amendments made at the time of the restatement.
25 Restated articles shall state that they are restated, or

1 restated and amended, if amendments are adopted with the
2 restatement, and shall supersede the existing articles and
3 amendments. Restated articles shall meet the requirements of
4 Section 30, except that the names and addresses of the
5 incorporators and initial directors may be omitted.

6 Restated articles shall set forth:

7 (1) the text of the articles as restated;

8 (2) the original date of incorporation, the original
9 name under which the association was incorporated,
10 subsequent names, if any, that the association adopted
11 pursuant to amendment of its articles of incorporation, and
12 the effective date of any such amendments;

13 (3) the address of the registered office and the name
14 of the registered agent on the date of filing the restated
15 articles; and

16 (4) the number of shares of each class issued on the
17 date of filing the restated articles and the amount of
18 paid-in capital as of such date, or a statement that the
19 association does not have stock.

20 A restatement of the articles shall be filed in the manner
21 prescribed for an amendment of the articles.

22 (d) Except as provided in the articles of incorporation or
23 bylaws, the board may adopt an amendment to the articles of
24 incorporation without a member vote in any of the following
25 cases:

26 (1) to change the principal place of business of the

1 association;

2 (2) to designate and determine the rights and
3 restrictions of a series within a class of capital stock,
4 if permitted by the articles;

5 (3) to reduce the authorized number of shares of any
6 class or series of capital stock to any number down to and
7 including the number of the shares issued and outstanding,
8 and to assign the authorization for the number of shares so
9 reduced to another class or classes of capital stock
10 previously authorized;

11 (4) after a merger, consolidation, conversion,
12 division, or occurrence of any other contingent event
13 referred to in the articles of incorporation, to eliminate
14 from the articles any statement or provision pertaining
15 exclusively to the merger, consolidation, conversion,
16 division, or occurrence, and to make other changes required
17 by such elimination, but only after the deleted item has
18 been superseded in accordance with the articles of
19 incorporation or otherwise is no longer in effect.

20 Section 40. Voting on amendment.

21 (a) (1) Unless the board provides that division (a) (3) of
22 this Section applies to an amendment to the articles of
23 incorporation, a holder of stock other than membership stock or
24 patronage stock who is affected by a proposed amendment to the
25 articles shall be entitled to cast one vote on the amendment

1 regardless of the par or stated value of the stock, the number
2 of shares, or the number of affected classes of stock held.

3 (2) A member holding stock affected by a proposed amendment
4 may vote only as a member and shall not be entitled to vote or
5 demand fair cash value as an affected stockholder.

6 (3) The board may provide that a stockholder otherwise
7 entitled to vote under division (a)(1) of this Section shall
8 instead be entitled to payment of fair cash value of the
9 affected stock held by such stockholder in accordance with
10 Section 170.

11 (b) For purposes of this Section, a holder of stock is
12 affected as to any class of stock owned by the holder only if
13 an amendment would expressly do any of the following:

14 (1) decrease the dividends to which that class may be
15 entitled or change the method by which the dividend rate on
16 that class is fixed;

17 (2) further restrict rights to transfer that class;

18 (3) give to another existing or any new class of stock
19 or equity interest not previously entitled thereto any
20 preference, as to dividends or upon dissolution, that is
21 higher than preferences of that class;

22 (4) change the par value of shares of that class or of
23 any other class having the same or higher preferences as to
24 dividends or upon dissolution;

25 (5) increase the number of authorized shares of any
26 class having a higher preference as to dividends or upon

1 dissolution; or

2 (6) require or permit an exchange of shares of any
3 class with lower preferences as to dividends or upon
4 dissolution for shares of any other class with higher
5 preferences.

6 (c) If any proposed amendment will alter or change the
7 powers, preferences, or special rights of one or more series of
8 any class so as to affect them adversely, but shall not so
9 affect the entire class, then only the shares of the series so
10 affected by the amendment shall be considered a separate class
11 for the purposes of subsection (b) of this Section.

12 (d) If stockholders are entitled to vote on an amendment,
13 the amendment is adopted only if all of the following
14 conditions are met:

15 (1) notice of the meeting, an exact copy of the
16 proposed amendment, and a ballot on the amendment have been
17 sent to each affected stockholder;

18 (2) approval by the members under Section 35; and

19 (3) approval by a simple majority of the affected
20 stockholders present and voting at a meeting of the
21 stockholders.

22 (e) This Section does not apply to stock issued prior to
23 the effective date of this Act, unless the association adopts
24 an amendment to its articles of incorporation making the stock
25 subject to this Section.

1 Section 45. Evidence of incorporation.

2 (a) A copy of the association's articles of incorporation
3 or restated articles filed in the office of the Secretary of
4 State, and certified by the Secretary of State, is conclusive
5 evidence, except as against the State, that the association has
6 been incorporated under the laws of this State; and a copy
7 certified by the Secretary of State of any certificate of
8 amendment or other certificate is prima-facie evidence of such
9 amendment or of the facts stated in the certificate, and of the
10 observance and performance of all antecedent conditions
11 necessary to the action that the certificate purports to
12 evidence.

13 (b) A copy of restated articles filed in the office of the
14 Secretary of State, and certified by the Secretary of State,
15 shall be accepted in this State and other jurisdictions in lieu
16 of the original articles, amendments to the articles, and prior
17 amended articles.

18 (c) The original or a copy of the record of minutes of the
19 proceedings of the incorporators of an association, or of the
20 proceedings or meetings of the members or any class of
21 stockholders, or of the directors, or of any committee thereof,
22 including any written consent, waiver, release, or agreement
23 entered in such record or minutes, or the original or a copy of
24 a statement that no specified proceeding was had or that no
25 specified consent, waiver, release, or agreement exists,
26 shall, when certified to be true by the secretary or an

1 assistant secretary of an association, be received in the
2 courts as prima-facie evidence of the facts stated therein.
3 Every meeting referred to in the certified original or copy is
4 considered duly called and held, and all motions and
5 resolutions adopted and proceedings had at the meeting are
6 considered duly adopted and had, and all elections of directors
7 and all elections or appointments of officers chosen at the
8 meeting are considered valid, until the contrary is proved; and
9 whenever a person who is not a member, patron, or stockholder
10 of an association has acted in good faith in reliance upon any
11 such certified original or copy, it is conclusive in that
12 person's favor.

13 Section 50. Reinstatement of association.

14 (a) An association that has been dissolved in a manner
15 other than for a voluntary dissolution as provided in Section
16 180, or a judicial dissolution, may be reinstated by filing, on
17 a form prescribed by the Secretary of State for the
18 administration of this Act, an application for reinstatement,
19 and by filing all reports and paying all fees, franchise taxes,
20 penalties, and interest then due and theretofore becoming due.
21 The application for reinstatement shall be executed and filed
22 in accordance with Section 55 of this Act and shall set forth:

23 (1) The name of the association at the time of the
24 issuance of the certificate of dissolution.

25 (2) If such name is not available for use as determined

1 by the Secretary of State at the time of filing the
2 application for reinstatement, the name of the association
3 shall be deemed changed provided that any change of name is
4 properly effected pursuant to Section 35 of this Act.

5 (3) The date of the issuance of the certificate of
6 dissolution.

7 (4) The name and address, including street and number,
8 or rural route number of the registered office of the
9 association upon reinstatement, and the name of its
10 registered agent at such address upon the reinstatement of
11 the association provided that any change from the
12 registered agent at the time of dissolution is properly
13 reported pursuant to Section 25 of this Act.

14 (b) Upon reinstatement of an association's articles of
15 incorporation, the rights, privileges, and franchises,
16 including all real or personal property rights and credits and
17 all contract and other rights, of the association existing at
18 the time that the dissolution became effective shall continue
19 in effect as if the dissolution had not occurred; and the
20 association shall again be entitled to exercise the rights,
21 privileges, and franchises authorized by its articles.

22 Section 55. Filing articles; fees; annual reports.

23 (a) For filing articles of incorporation or articles of
24 amendment, merger, consolidation, division, dissolution, or
25 reinstatement, an association organized under this Act shall

1 pay to the Secretary of State the same fees required of
2 corporations organized under the Business Corporation Act of
3 1983. In the case of an article of division, the filing fee
4 shall be the same as for an article of merger or consolidation.

5 (b) Associations shall file the same annual reports and pay
6 the same fees, franchise taxes, penalties, and interest
7 required of corporations under Article 15 of the Business
8 Corporation Act of 1983, except that if the association is
9 organized without capital stock, the association shall report
10 its paid-in capital as the total of its membership interests.

11 (c) When the articles of incorporation or articles of
12 amendment, merger, consolidation, conversion, division, or
13 dissolution are filed with the Secretary of State, the
14 Secretary of State shall, if the articles comply with this Act,
15 endorse approval thereon, the date of filing, a file number,
16 and make a legible copy thereof by any authorized method.

17 (d) All persons shall have the opportunity to acquire a
18 copy of the articles filed in the office of the Secretary of
19 State, but no person dealing with the association shall be
20 charged with constructive notice of the contents of any such
21 articles by reason of the filing.

22 Section 60. Dividends; stock; security interest.

23 (a) An association may pay dividends annually on its
24 capital stock at a rate not exceeding 8% of its par value for
25 any year, but dividends may be cumulative. The realized net

1 earnings of the cooperative, to the extent attributable to
2 business done with or for its patrons, shall be allocated and
3 distributed among patrons in proportion to their patronage and
4 in such manner and at such time as to constitute patronage
5 dividends or per-unit retain allocations within the meaning of
6 federal income tax law.

7 (b) Notwithstanding subsection (a), the articles or bylaws
8 may provide for any of the following:

9 (1) that eligibility for patronage dividends is
10 limited to members or to members in good standing;

11 (2) that the net earnings of the cooperative shall be
12 retained for the capital and development needs of the
13 cooperative and the improvement and extension of its
14 services;

15 (3) that the number of allocation units of the
16 cooperative shall be limited in any reasonable and
17 equitable manner; or

18 (4) that patronage-sourced net operating losses of the
19 cooperative shall not be allocated to patrons but shall be
20 carried forward to offset patronage-sourced net earnings
21 of subsequent years.

22 (c) An association, at any time, may purchase its own
23 common stock at par or book value as determined by the board.

24 (d) An association shall have a continued perfected
25 security interest in its membership stock and patronage stock
26 to secure payment of any indebtedness or other obligation of

1 the holder or owner to the association. Notwithstanding
2 Articles 8 and 9 of the Uniform Commercial Code, the security
3 interest shall have priority over all other perfected security
4 interests. Unless otherwise provided in the association's
5 articles of incorporation or bylaws, or by contract, a member
6 or other patron has no right to compel an association to offset
7 its membership stock or patronage stock against any
8 indebtedness or obligation owed to the association.

9 Section 62. Membership stock certificates; disclosure
10 document.

11 (a) An association may issue, but is not required to issue,
12 membership stock certificates, if it is organized with
13 membership stock. In the event that such certificates are
14 issued, the certificates shall state the information required
15 to be contained in the disclosure document described in
16 subsection (c).

17 (b) If an association does not issue certificates, it shall
18 issue a receipt or written advice of purchase to anyone
19 purchasing a membership or membership share, or receiving a
20 patronage share. No disclosure document need be provided to an
21 existing member prior to the purchase of additional memberships
22 or membership shares, or to a patron receiving patronage
23 shares, if that member or patron has previously been provided
24 with a disclosure document which is accurate and correct as of
25 the date of the membership or share transaction.

1 (c) Except as provided in subsection (e), prior to issuing
2 a membership or membership stock, an association shall provide
3 the purchaser with a disclosure document. The disclosure
4 document may be a prospectus, offering circular, brochure,
5 specimen copy of the membership certificate, or similar
6 document. The disclosure document shall contain the following
7 information:

8 (1) A statement that the association is a cooperative
9 corporation.

10 (2) A statement that a copy of the association's
11 articles and bylaws are available at a specified internet
12 website, if the association has made them electronically
13 available, and that such documents will be furnished
14 without charge to a member or prospective member upon
15 written request, and the address to which such a written
16 request is to be directed.

17 (3) A statement of the purchase price of a membership
18 or membership share, and if such purchase price is subject
19 to change, a statement of the process for making such
20 change.

21 (4) If there are restrictions imposed by the
22 association upon the transfer of membership, a statement to
23 that effect and the restrictions imposed on transfer.

24 (5) If the association may levy dues, assessments,
25 additional share purchases, or membership or transfer
26 fees, a statement to that effect and the conditions under

1 which the association may make such a levy.

2 (6) If the member is required to contribute services to
3 the association, a statement to that effect and the amount
4 and nature of the services to be contributed to the
5 association.

6 (7) Whether the membership is redeemable and the
7 conditions under which the membership may be redeemed at
8 the option of the association or the member.

9 (8) If the voting power or the proprietary interests of
10 the members is unequal, a statement to that effect and the
11 rule or rules by which the voting power and proprietary
12 rights are to be determined.

13 (9) In lieu of specifying verbatim in the disclosure
14 document the restrictions on the transfer of a membership,
15 conditions of levy, amount and nature of services to be
16 contributed, conditions under which memberships are
17 redeemable, or the rules by which the voting power and
18 proprietary rights of members are to be determined, the
19 disclosure document may contain a statement that such
20 information will be provided free of charge to a member or
21 prospective member who requests it in writing. If the
22 disclosure document contains such a statement it shall also
23 set forth the address to which such a request is to be
24 directed.

25 (d) If the articles or bylaws are amended so that any
26 statement required by subsection (a) on outstanding membership

1 stock certificates is no longer accurate, the board may cancel
2 the outstanding certificates and issue in their place new
3 certificates conforming to the articles or bylaws as amended.

4 (e) When new membership stock certificates are issued in
5 accordance with subsection (d), the board may order holders of
6 outstanding certificates to surrender and exchange them for new
7 certificates within a reasonable time fixed by the board. The
8 board may further provide that the holder of the certificate to
9 be surrendered shall not be entitled to exercise any of the
10 rights of membership until the certificate is surrendered, but
11 such rights shall be suspended only after notice of the order
12 is given to the holder of the certificate and only until the
13 certificate is surrendered.

14 (f) If a transferee of a membership stock certificate has
15 not previously been provided with a disclosure statement which
16 is accurate and correct as of the date of registration of the
17 transfer, then the association shall provide a disclosure
18 document to the transferee upon registration with the
19 association of the transfer of the certificate.

20 Section 65. Bylaws. An association shall adopt bylaws that
21 are not inconsistent with this Act or the association's
22 articles of incorporation. The bylaws may provide for any of
23 the following:

24 (1) The time, place, and manner of calling and
25 conducting the association's meetings.

1 (2) The number of members constituting a quorum. If
2 voting by any method other than personal appearance is
3 used, members represented by a ballot may be counted in
4 computing a quorum only on those matters for which the
5 ballots were submitted.

6 (3) The right of members to vote by ballot delivered in
7 person, by mail, by electronic or telephonic transmittal,
8 or any combination of these, and the conditions, manner,
9 form, and effect of such votes.

10 (4) Subject to the provisions of Section 75, a method
11 of voting by members or delegates, and any limitations on
12 voting rights of any group or class of members or
13 delegates.

14 (5) The number of directors constituting a quorum.

15 (6) The number, qualifications, compensation, duties,
16 and terms of office of directors and officers, and the time
17 of their election and the manner of giving notice of the
18 election.

19 (7) Penalties for violation of the bylaws.

20 (8) The amounts of entrance, organization, and
21 membership fees, if any, the manner of collecting them, and
22 the purposes for which they may be used, or the par value
23 and number of shares required for membership, if any.

24 (9) Any amount that each member is required to pay
25 annually or from time to time to carry on the business of
26 the association; any charge to be paid by each member for

1 services rendered by the association, and the time of
2 payment and the manner of collection of such charge; and
3 any marketing contract between the association and its
4 members that members may be required to sign.

5 (10) The number and qualifications of members of the
6 association and the conditions of membership or for
7 ownership of membership stock in the association.

8 (11) The time and manner of permitting members to
9 withdraw or the holders of membership stock to transfer
10 their stock; and the manner of assignment and transfer of
11 membership stock.

12 (12) The conditions upon which, and the time when, the
13 membership of any member ceases; and the suspension of the
14 rights of a member who ceases to be eligible for membership
15 in the association.

16 (13) The manner and effect of the expulsion of a
17 member.

18 (14) In the event of the death or withdrawal of a
19 member or upon the expulsion of a member or the forfeiture
20 of membership, any of the following:

21 (A) the manner of determining the value of a
22 member's interest;

23 (B) provision for the purchase of a member's
24 interest by the association; or

25 (C) at the option of the association, provision for
26 such purchase at a price fixed by appraisal by the

1 board of directors of the association.

2 (15) Any other provision for any matter relative to the
3 control, regulation, operation, management, or government
4 of the association.

5 Section 70. Adoption, amendment, or repeal of bylaws.

6 (a) The initial bylaws may be adopted by the association's
7 directors who are to serve until the first member meeting.
8 After the initial bylaws are adopted, bylaws may be adopted and
9 amended only by the members unless the articles or bylaws
10 provide that the board, by a two-thirds vote of the entire
11 board, may adopt or amend the bylaws or any specified bylaw.

12 (b) Any bylaw adopted or amended by the board shall be
13 reported at the next member meeting. Any bylaw adopted or
14 amended by the board shall not conflict with the association's
15 articles of incorporation or with this Act. Any bylaw is
16 subject to amendment or repeal by the members at any time.

17 (c) Unless the bylaws provide otherwise, any bylaw may be
18 adopted, amended, or repealed by a majority of the member votes
19 cast on the adoption, amendment, or repeal.

20 Section 75. Members or delegates entitled to vote.

21 (a) A member entitled to vote shall have one vote, except
22 that the articles or bylaws of the association may permit the
23 following:

24 (1) voting by members in accordance with the amount of

1 business done with or through the association;

2 (2) voting by delegates, including a voting system that
3 provides any one or a combination of the following:

4 (A) that a delegate may cast only one vote;

5 (B) that a delegate may cast one vote for each
6 member represented by the delegate; or

7 (C) that another form of delegate voting may be
8 used.

9 (3) Voting by delegates or certain members on matters
10 that are to be submitted to a member vote.

11 (4) Voting by any combination of the methods set forth
12 in this subsection or any other method of voting set forth
13 in the bylaws, provided the association is controlled by
14 the members.

15 (b) If the articles or bylaws provide that only delegates
16 or certain members are entitled to vote on matters to be
17 submitted to a member vote, "member" or "members", as used in
18 this Act with respect to the right of a member to vote, voting
19 procedure, the required proportion of member votes, actions
20 that are required or permitted to be taken by members, and the
21 number of members required for a quorum, means the delegates or
22 other members entitled to vote. When voting is based on the
23 amount of business done, provisions of this Act requiring a
24 vote of the members are met if the required membership vote is
25 satisfied based on the voting power of the members.

1 Section 80. Members; meetings.

2 (a) An association shall have 2 or more members. However,
3 an association may have one member if that member is a
4 cooperative that has 2 or more members.

5 (b) An association shall hold an annual meeting of its
6 members. The board may call a special meeting of the members at
7 any time. Any meeting of the members may be held at one time or
8 in a series of meetings at one or more locations.

9 (c) Twenty per cent of the members entitled to vote may
10 file with the board a petition stating any proper business to
11 be brought before the association and demanding a special
12 meeting at any time for consideration of such business. Upon
13 compliance with this Section, the meeting shall be called by
14 the board.

15 (d) Notice of every meeting, together with a statement of
16 the purpose of the meeting, shall be sent to each member who is
17 entitled to vote at the meeting and any affected stockholder at
18 the member's or stockholder's current address, as shown in the
19 records of the association, at least 10 days prior to the
20 meeting, in accordance with Section 85. The bylaws may provide
21 that the notice be given by publication in a newspaper or
22 newspapers of general circulation in the trade area of the
23 association if notice to individual members and affected
24 shareholders is impracticable.

25 Section 85. Methods of giving notice; waiver.

1 (a) Whenever notice is required by this Act to be given to
2 any person, the notice may be given personally, by mail, or by
3 electronic or telephonic transmittal. If mailed, the notice is
4 given when it is deposited in the United States mail, with
5 postage prepaid, addressed to the person at the person's
6 address as it appears on the records of the association. If
7 notice is sent by electronic or telephonic transmittal, notice
8 is given when an electronic or telephonic confirmation of
9 delivery is received by the association.

10 (b) A signed waiver is equivalent to personal notice to the
11 person signing. The waiver may be signed at any time.

12 Section 90. Board of directors.

13 (a) Except where this Act or an association's articles of
14 incorporation or bylaws require that action be otherwise
15 authorized or taken, all of the authority of an association
16 shall be exercised by or under the direction of the board. The
17 board shall consist of not less than 5 directors, elected by
18 and from the members, unless (i) the number of members is less
19 than 5, in which case, the number of directors may equal the
20 number of members or (ii) the articles provide that members
21 directly and equally control the association and that all
22 director rights, responsibilities, and other requirements
23 under this Act are assigned to each member, in which case there
24 may be no elected board and all references to a board or
25 directors in this Act apply instead to all members.

1 (b) The bylaws may provide that the membership of an
2 association be divided into districts or other groupings and
3 that the directors shall be elected according to such districts
4 or groupings. In that case, the bylaws shall specify the number
5 of directors to be elected and the manner of reapportioning or
6 redistricting the membership.

7 (c) The bylaws may provide that one or more directors may
8 be appointed by the other directors. The appointed directors
9 need not be members of the association, but shall have the same
10 powers, rights, and responsibilities as other directors. The
11 appointed directors shall not number more than 20% of the
12 entire number of directors.

13 (d) The bylaws may provide for an executive committee and
14 may allot to the executive committee any of the functions and
15 powers of the board, subject to the general direction and
16 control of the board.

17 (e) The association may provide a fair remuneration for the
18 time actually spent by its officers and directors in its
19 service, and for the services of the members of its executive
20 committee.

21 (f) Unless the bylaws provide otherwise, when a vacancy on
22 the board occurs other than by expiration of term, the
23 remaining directors on the board, by a majority vote, may elect
24 a director to fill the vacancy. If the bylaws provide for an
25 election of directors by the members in a district or other
26 grouping, the board may call a special meeting of the members

1 in that district or group to fill the vacancy.

2 (g) A director may resign at any time by giving written
3 notice to the board of directors, its chairman, or to the
4 president or secretary of the association. A resignation is
5 effective when the notice is given unless the notice specifies
6 a future date. The pending vacancy may be filled before the
7 effective date, but the successor shall not take office until
8 the effective date.

9 Section 92. Officers.

10 (a) The officers of an association shall consist of a
11 president, a secretary, a treasurer, and, if desired, a
12 chairperson and one or more vice-chairpersons of the board, one
13 or more vice-presidents, and other officers and assistant
14 officers as necessary. The officers shall be elected by the
15 board. The chairperson and any vice-chairperson of the board
16 shall be a director. Unless the association's articles of
17 incorporation or bylaws provide otherwise, none of the other
18 officers need be a director. Any 2 or more offices may be held
19 by the same person, but no officer shall execute, acknowledge,
20 or verify any instrument in more than one capacity if the
21 instrument is required by law or by the articles or bylaws to
22 be executed, acknowledged, or verified by 2 or more officers.
23 Unless the articles or the bylaws provide otherwise, all
24 officers shall be elected annually.

25 (b) All officers have the authority to perform, and shall

1 perform, the duties as the bylaws provide, or as the board may
2 determine in accordance with the bylaws.

3 Section 93. Removal of officers or directors.

4 (a) Unless the bylaws provide otherwise, a director may be
5 removed, with or without cause, by a majority vote of all
6 members at an annual or special meeting.

7 (b) If the bylaws provide for election of directors by the
8 members in a district or other grouping, then the members
9 residing in that district or belonging to the group may, by a
10 majority vote at an annual or special meeting, remove the
11 director representing such district or group.

12 (c) Any director or officer facing possible removal shall
13 be given fair notice of the proposed action in writing prior to
14 a meeting and shall have an opportunity at the meeting to be
15 heard in person or in writing.

16 Section 95. Indemnification.

17 (a) Subject to subsections (b) and (c) of this Section, an
18 association may indemnify or agree to indemnify any person that
19 was or is a party, or is threatened to be made a party, to any
20 threatened, pending, or completed civil, criminal,
21 administrative, or investigative action, suit, or proceeding,
22 other than an action or suit by or in the right of the
23 association, because the person is or was a director, officer,
24 employee, agent, or volunteer of the association or is or was

1 serving at the request of the association as a trustee,
2 director, officer, employee, member, manager, agent, or
3 volunteer of another association, entity, partnership, joint
4 venture, trust, or other enterprise. The indemnification
5 described in this subsection shall be for expenses, including
6 attorney's fees, judgments, fines, and amounts paid in
7 settlement actually and reasonably incurred by the person in
8 connection with the action, suit, or proceeding described in
9 this subsection.

10 (b) With respect to any noncriminal action or proceeding,
11 the indemnification described in subsection (a) of this Section
12 shall only be made if the person acted in good faith and in a
13 manner the person reasonably believed to be in or not opposed
14 to the best interests of the association as described in
15 subsection (d) of Section 100.

16 (c) With respect to any criminal action or proceeding, the
17 indemnification described in subsection (a) of this Section
18 shall only be made if the person acted in good faith and in a
19 manner the person reasonably believed to be in or not opposed
20 to the best interests of the association as described in
21 subsection (d) of Section 100, and the person had no reasonable
22 cause to believe the conduct was unlawful.

23 (d) For purposes of subsections (b) and (c) of this
24 Section, the termination of any action, suit, or proceeding by
25 judgment, order, settlement, or conviction or a plea of nolo
26 contendere or its equivalent does not create, of itself, a

1 presumption that the person did not act in good faith and in a
2 manner the person reasonably believed to be in or not opposed
3 to the best interests of the association or that the person had
4 reasonable cause to believe that the conduct was unlawful.

5 (e) Subject to subsection (f) of this Section and provided
6 the person acted in good faith and in a manner the person
7 reasonably believed to be in or not opposed to the best
8 interests of the association, an association may indemnify or
9 agree to indemnify any person that was or is a party, or is
10 threatened to be made a party, to any threatened, pending, or
11 completed action or suit by or in the right of the association
12 to procure a judgment in its favor, because the person is or
13 was a director, officer, employee, agent, or volunteer of the
14 association or is or was serving at the request of the
15 association as a trustee, director, officer, employee, member,
16 manager, agent, or volunteer of another association, entity,
17 partnership, joint venture, trust, or other enterprise. The
18 indemnification described in this subsection shall be for
19 expenses, including attorney's fees, actually and reasonably
20 incurred by the person in connection with the defense or
21 settlement of an action or suit described in this subsection.

22 (f) If a person is adjudged to be liable for negligence or
23 misconduct in the performance of a duty to the association, the
24 indemnification described in subsection (e) of this Section
25 shall not exceed, for any claim, issue, or matter, the amount
26 that the court in which the action or suit was brought

1 determines, upon application, that despite the adjudication of
2 liability and in view of all the circumstances of the case, the
3 person fairly and reasonably is entitled to indemnity for
4 expenses that the court in which the action or suit was brought
5 considers proper.

6 (g) Notwithstanding subsections (a), (b), (c), (d), (e),
7 and (f) of this Section, unless limited in the articles of
8 incorporation, to the extent that a person has been successful
9 on the merits in defense of any action, suit, or proceeding
10 described in subsection (a), (b), (c), (d), (e), or (f) of this
11 Section, the person shall be indemnified against expenses,
12 including attorney's fees, actually and reasonably incurred in
13 connection with that action, suit, or proceeding.

14 (h) Unless ordered by a court or unless subsection (g) of
15 this Section applies, the association shall make any
16 indemnification under subsections (a), (b), (c), (d), (e), and
17 (f) of this Section only as authorized in the specific case,
18 upon a determination that indemnification of the person is
19 proper in the circumstances because the person has met the
20 applicable standard of conduct set forth in subsections (a),
21 (b), (c), (d), (e), and (f) of this Section. This determination
22 shall be made in any of the following manners:

23 (1) by a majority vote of a quorum consisting of
24 directors of the indemnifying association that were not and
25 are not parties to or threatened with the action, suit, or
26 proceeding described in subsections (a), (b), (c), (d),

1 (e), and (f) of this Section;

2 (2) whether or not a quorum as described in paragraph
3 (1) of this subsection is obtainable, and if a majority of
4 a quorum of disinterested directors so directs, in a
5 written opinion by independent legal counsel other than an
6 attorney or a firm of attorneys associated with that
7 attorney, that within the past 5 years has been retained by
8 or has performed services for the association or has
9 performed services for any person to be indemnified; or

10 (3) by the members.

11 (i) The association shall pay the expenses, including
12 attorney's fees, incurred by the person in defending the
13 action, suit, or proceeding described in subsection (a), (b),
14 (c), (d), (e), or (f) of this Section, unless either of the
15 following applies:

16 (1) At the time of a person's act or omission that is
17 the subject of an action, suit, or proceeding described in
18 subsection (a), (b), (c), (d), (e), or (f) of this Section,
19 the articles or bylaws of the association state, by
20 specific reference to subsections (a), (b), (c), (d), (e),
21 and (f) of this Section, that subsections (a), (b), (c),
22 (d), (e), and (f) of this Section do not apply to the
23 association.

24 (2) The only liability asserted against a person in an
25 action, suit, or proceeding described in subsection (a),
26 (b), (c), (d), (e), or (f) of this Section is pursuant to

1 Section 110. Upon receipt of a request from a person, the
2 association may pay expenses, including attorney's fees,
3 incurred by a person in defending any action, suit, or
4 proceeding described in subsection (a), (b), (c), (d), (e),
5 or (f) of this Section as the expenses are incurred in
6 advance of the final disposition of the action, suit, or
7 proceeding, if the board authorizes this payment in the
8 specific case and upon receipt of an undertaking by or on
9 behalf of the person to repay the amount if it ultimately
10 is determined that the person is not entitled to be
11 indemnified by the association.

12 (j) Both of the following apply to the indemnification
13 authorized by this Section:

14 (1) It is not exclusive of and is in addition to any
15 other rights granted to a person seeking indemnification
16 pursuant to the articles or bylaws of the association, any
17 agreement, a vote of members or disinterested directors of
18 the association, or otherwise, for action taken in the
19 person's official capacity and action taken in another
20 capacity while holding their office or position.

21 (2) It continues as to a person that has ceased to be a
22 director, officer, employee, member, manager, agent, or
23 volunteer and inures to the benefit of the heirs,
24 executors, and administrators of that person.

25 (k) As used in this Section, "association" includes all
26 constituent associations and entities in a consolidation or

1 merger and the new or surviving association or entity. Any
2 person that is or was a director, officer, employee, agent, or
3 volunteer of a constituent association or is or was serving at
4 the request of a constituent association as a trustee,
5 director, officer, employee, member, manager, agent, or
6 volunteer of another association, entity, partnership, joint
7 venture, trust, or other enterprise stands in the same position
8 under this Section with respect to the new or surviving
9 association or entity as the person would if the person had
10 served the new or surviving association or entity in the same
11 capacity.

12 (1) An association may purchase and maintain insurance or
13 furnish similar protection, including, but not limited to,
14 trust funds, letters of credit, or self-insurance, for or on
15 behalf of any person that is or was a director, officer,
16 employee, agent, or volunteer of the association or is or was
17 serving at the request of the association as a trustee,
18 director, officer, employee, member, manager, agent, or
19 volunteer of another association, entity, partnership, joint
20 venture, trust, or other enterprise. The insurance or similar
21 protection described in this subsection shall be against any
22 liability asserted against the person and incurred by the
23 person in any such capacity, whether or not the association
24 would have the power to indemnify the person against that
25 liability under this Section.

26 Insurance described in this subsection may be purchased

1 from or maintained with a person in which the association has a
2 financial interest.

3 Section 100. Standard of care for directors.

4 (a) A director shall perform the duties of a director,
5 including duties as a member of any committee of the directors
6 upon which the director serves, in good faith, in a manner the
7 director reasonably believes to be in or not opposed to the
8 best interests of the association, and with the care that an
9 ordinarily prudent person in a like position would use under
10 similar circumstances. In performing these duties, a director
11 is entitled to rely on information, opinions, reports, or
12 statements, including financial statements and other financial
13 data, that are prepared or presented by any of the following:

14 (1) one or more directors, officers, or employees of
15 the association whom the director reasonably believes are
16 reliable and competent in the matters prepared or
17 presented;

18 (2) counsel, public accountants, or other persons as to
19 matters that the director reasonably believes are within
20 the person's professional or expert competence;

21 (3) a committee of the directors upon which the
22 director does not serve, established in accordance with the
23 association's articles of incorporation or bylaws, as to
24 matters within its designated authority, provided the
25 director reasonably believes the committee merits

1 confidence.

2 (b) For purposes of subsection (a) of this Section:

3 (1) A director shall not be found to have failed to
4 perform the duties in accordance with subsection (a) of
5 this Section, unless it is proved, by clear and convincing
6 evidence, in an action brought against the director that
7 the director has not acted in good faith, in a manner
8 reasonably believed to be in or not opposed to the best
9 interests of the association, or with the care that an
10 ordinarily prudent person in a like position would use
11 under similar circumstances. Such an action includes, but
12 is not limited to, an action that involves or affects any
13 of the following:

14 (A) a change or potential change in control of the
15 association;

16 (B) a termination or potential termination of the
17 director's service to the association as a director;

18 (C) service in any other position or relationship
19 with the association.

20 (2) A director shall not be considered to be acting in
21 good faith if the director has knowledge concerning the
22 matter in question that would cause reliance on
23 information, opinions, reports, or statements that are
24 prepared or presented by the persons described in
25 subsections (a)(1) through (a)(3) of this Section to be
26 unwarranted.

1 (c)(1) Subject to subsections (c)(2) and (c)(3) of this
2 Section, a director is liable in damages for any act that the
3 director takes or fails to take as director only if it is
4 proved, by clear and convincing evidence, in an action brought
5 against the director that the act or omission of the director
6 was undertaken with a deliberate intent to cause injury to the
7 association or was undertaken with a reckless disregard for the
8 best interests of the association.

9 (2) Subsection (c)(1) of this Section does not affect the
10 liability of a director under Section 110.

11 (3) Subject to subsection (c)(2) of this Section,
12 subsection (c)(1) of this Section does not apply if, and only
13 to the extent that, at the time of an act or omission of the
14 director, the association's articles of incorporation or
15 bylaws state, by specific reference to subsection (c)(1) of
16 this Section, that its provisions do not apply to the
17 association.

18 (d) For purposes of this Section and Section 95, in
19 determining what is reasonably believed to be in or not opposed
20 to the best interests of the association, a director shall
21 consider the purposes of the association and may consider any
22 of the following:

23 (1) the interests of the employees, suppliers,
24 creditors, and customers of the association;

25 (2) the economy of this State and of the United States;

26 (3) community, and societal, and environmental

1 matters;

2 (4) the long-term and short-term best interests of the
3 association;

4 (5) the interests of the members as patrons of the
5 association.

6 (e) Subsections (b) and (c) of this Section do not affect
7 the duties of a director who acts in any capacity other than as
8 a director.

9 Section 105. Effect of self-dealing.

10 (a) Unless otherwise provided in an association's articles
11 of incorporation or bylaws:

12 (1) No contract or transaction between an association
13 and one or more of its directors or officers, or between
14 the association and any other person in which one or more
15 of the association's directors or officers are directors or
16 officers, or have a financial or personal interest, shall
17 be void or voidable solely for this reason, or solely
18 because the director or officer is present at or
19 participates in the meeting of the board or committee that
20 authorizes the contract or transaction, or solely because
21 the director's or officer's votes are counted for such
22 purpose, if the contract or transaction is fair to the
23 association at the time it is authorized or approved, and
24 such authorization or approval is granted in either of the
25 following manners:

1 (A) the material facts as to the relationship or
2 interest and as to the contract or transaction are
3 disclosed or are known to the board or the committee,
4 and the board or committee in good faith authorizes the
5 contract or transaction by the affirmative vote of a
6 majority of the disinterested directors, even if the
7 disinterested directors constitute less than a quorum
8 of the board or the committee; or

9 (B) the material facts as to the relationship or
10 interest and as to the contract or transaction are
11 disclosed or are known to the members entitled to vote
12 on the contract or transaction, and the contract or
13 transaction is specifically approved at a meeting of
14 the members.

15 (2) Common or interested directors may be counted in
16 determining the presence of a quorum at a meeting of the
17 board, or of a committee that authorizes the contract or
18 transaction.

19 (b) Items (1) and (2) of subsection (a) do not limit or
20 otherwise affect the liability of directors under Section 110.

21 (c) For purposes of subsection (a), a director is not an
22 interested director solely because the subject of a contract or
23 transaction may involve or effect a change in control of the
24 association or continuation in office as a director of the
25 association.

1 Section 110. Liability of members, directors, and
2 officers.

3 (a) No member, director, or officer of an association shall
4 be personally liable for any obligation of the association to
5 an amount exceeding the sum remaining unpaid on his membership
6 fee or his subscription to the capital stock, including any
7 unpaid balance on any promissory notes given in payment
8 thereof.

9 (b) Directors who vote for or assent to any of the
10 following are jointly and severally liable to the association
11 in accordance with this subsection:

12 (1) a distribution of assets to members, stockholders,
13 or patrons contrary to law, the association's articles of
14 incorporation, or bylaws;

15 (2) a distribution of assets to persons other than
16 creditors during the winding up of the affairs of the
17 association, on dissolution or otherwise, without the
18 payment of all known obligations of the association, or
19 without making adequate provision for the payment of the
20 obligations; or

21 (3) the making of loans, other than in the usual
22 conduct of the association's affairs or in accordance with
23 the association's articles or bylaws, to an officer,
24 director, or member of the association.

25 In cases under item (1) of this subsection, directors are
26 liable up to the amount of the distribution in excess of the

1 amount that could have been distributed without violation of
2 law, the articles of incorporation, or bylaws, but not in
3 excess of the amount that would inure to the benefit of the
4 creditors of the association if it was insolvent at the time of
5 the distribution or there was reasonable ground to believe that
6 by such vote or assent it would be rendered insolvent, or to
7 the benefit of the members or stockholders other than members
8 or stockholders of the class in respect of which the
9 distribution was made.

10 In cases under item (2) of this subsection, directors are
11 liable to the extent that the obligations, not otherwise barred
12 by statute, are not paid, or for the payment of which adequate
13 provision has not been made.

14 In cases under item (3) of this subsection, directors are
15 liable for the amount of the loan with interest thereon at the
16 rate of 6% per year until the amount has been paid.

17 A director is not liable under item (1) or (2) of this
18 subsection if, in determining the amount available for any such
19 distribution, the director in good faith relied on a financial
20 statement of the association prepared by an officer or employee
21 of the association in charge of its accounts or by a certified
22 public accountant or firm of certified public accountants, or
23 in good faith considered the assets to be of their book value,
24 or followed what the director believed to be sound accounting
25 and business practice.

26 (c) A director who is present at a meeting of the board or

1 a committee of the board at which action on any matter is
2 authorized or taken and who has not voted for or against such
3 action shall be presumed to have voted for the action unless
4 the director dissents from the action during the meeting and
5 the dissent is noted in the minutes of the proceedings of the
6 meeting, or a written dissent is filed either during the
7 meeting or within a reasonable time after the adjournment of
8 the meeting.

9 (d) A member, stockholder, or patron who receives any
10 distribution made contrary to law, the association's articles
11 of incorporation, or bylaws is liable to the association for
12 the amount received that is in excess of the amount that could
13 have been distributed.

14 (e) A director against whom a claim is asserted under or
15 pursuant to this Section and who is held liable on the claim is
16 entitled to contribution, on equitable principles, from other
17 directors who also are liable. In addition, any director
18 against whom a claim is asserted under or pursuant to this
19 Section, or who is held liable, has a right of contribution
20 from the member, stockholder, or patron who received any
21 distribution made contrary to law, the articles of
22 incorporation, or bylaws, and such persons as among themselves
23 also are entitled to contribution in proportion to the amounts
24 received by them respectively.

25 (f) No action shall be brought by or on behalf of an
26 association, upon any cause of action arising under item (1) or

1 (2) of subsection (b), at any time after 2 years from the day
2 on which the violation occurs; provided that no such action is
3 barred by this subsection if it is commenced prior to the
4 effective date of this Act.

5 Section 120. Surety bonds. If required by the
6 association's bylaws, every officer, employee, and agent
7 handling funds, negotiable instruments, or other property of or
8 for an association shall execute and deliver adequate bonds for
9 the faithful performance of the officer's, employee's, or
10 agent's duties and obligations.

11 Section 130. Books and records; examination by member.

12 (a) An association shall keep correct and complete books
13 and records of account, and shall also keep minutes of the
14 proceedings of meetings of its members, board, and delegates.
15 The association shall keep at its principal office records of
16 the names and addresses of all members and stockholders with
17 the amount of ownership interests and stock held by each.

18 (b) At any reasonable time, any member, upon written notice
19 that states, with specificity, a proper purpose for an
20 examination of books and records and that is delivered or sent
21 to the association at least one week in advance, may examine
22 those books and records pertinent to the purpose in the notice.
23 The board may deny a request of a member to examine the books
24 and records if the purpose is not proper because the purpose is

1 not directly related to the person's interest as a member and
2 is contrary to the best interests of the association.

3 (c) At any reasonable time, a stockholder who is not a
4 member, upon written notice that states, with specificity, a
5 proper purpose for an examination of books and records and that
6 is delivered or sent to the association at least one week in
7 advance, may examine those books and records that are pertinent
8 to the purpose in the notice. The board may deny a request of a
9 stockholder to examine the books and records if the purpose is
10 not proper because the purpose is not directly related to the
11 person's interest as a stockholder and is contrary to the best
12 interest of the association.

13 Section 132. Interrogatories to be propounded by Secretary
14 of State. The Secretary of State may propound to any
15 association subject to the provisions of this Act, and to any
16 officer or director thereof, such interrogatories as may be
17 reasonably necessary and proper to enable the Secretary to
18 ascertain whether such association has complied with all the
19 provisions of this Act applicable to such association. Such
20 interrogatories shall be answered within 30 days after the
21 mailing thereof, or within such additional time as shall be
22 fixed by the Secretary of State, and the answers thereto shall
23 be full and complete and shall be made in writing and under
24 oath. If such interrogatories be directed to an individual they
25 shall be answered by him or her, and if directed to an

1 association they shall be answered by the president,
2 vice-president, or secretary thereof. The Secretary of State
3 need not file any document to which such interrogatories relate
4 until such interrogatories be answered as herein provided, and
5 not then if the answers thereto disclose that such document is
6 not in conformity with the provisions of this Act. The
7 Secretary of State shall certify to the Attorney General, for
8 such action as the Attorney General may deem appropriate, all
9 interrogatories and answers thereto which disclose a violation
10 of any of the provisions of this Act.

11 Section 133. Information disclosed by interrogatories.
12 Interrogatories propounded by the Secretary of State and the
13 answers thereto shall not be open to public inspection nor
14 shall the Secretary of State disclose any facts or information
15 obtained therefrom except insofar as official duty may require
16 the same to be made public or in the event such interrogatories
17 or the answers thereto are required for evidence in any
18 criminal proceeding or in any other action by the State.

19 Section 135. Merger or consolidation with associations.

20 (a) An association may merge or consolidate with one or
21 more associations under this Act. Before an association may
22 merge or consolidate with any other association, a written plan
23 of merger or consolidation shall be approved by the board of
24 each constituent association and by the members of each

1 constituent association. The plan shall set forth the terms of
2 the merger or consolidation, including any provisions for
3 amendment or abandonment of the plan. In the case of a
4 consolidation, the plan also shall contain the articles of
5 incorporation of the new association.

6 (b) If the plan of merger or consolidation provides that a
7 holder of stock other than membership stock or patronage stock
8 in a constituent association will be affected, all of the
9 following apply:

10 (1) Unless the board of the constituent association
11 provides that item (2) of this subsection applies, the
12 affected stockholder shall be entitled to cast one vote on
13 the plan regardless of the par or stated value, the number
14 of shares, or the number of affected classes of the stock
15 held.

16 (2) The board of a constituent association may provide
17 that a stockholder otherwise entitled to vote under item
18 (1) of this subsection shall instead be entitled to payment
19 of fair cash value of the affected stock held by the
20 stockholder in accordance with Section 170.

21 (3) A member holding stock affected by a proposed plan
22 of merger or consolidation may vote only as a member and
23 shall not be entitled to vote or demand fair cash value as
24 an affected stockholder.

25 (c) For purposes of this Section, a holder of stock is
26 affected as to any class of stock owned by the holder only if

1 the agreement of merger or consolidation does any of the
2 following:

3 (1) decreases the dividends to which that class may be
4 entitled or changes the method by which the dividend rate
5 on that class is fixed;

6 (2) provides for additional restriction of rights to
7 transfer shares of that class;

8 (3) gives to another existing or any new class of stock
9 or equity interest not previously entitled thereto any
10 preference, as to dividends or upon dissolution, that is
11 higher than preferences of that class;

12 (4) changes the par value of shares of that class or of
13 any other class having the same or higher preferences as to
14 dividends or upon dissolution;

15 (5) increases the number of authorized shares of any
16 other class having the same or higher preferences as to
17 dividends or upon dissolution beyond the aggregate
18 authorizations for such classes in the constituent
19 associations; or

20 (6) requires or permits an exchange of shares of any
21 class with lower preferences as to dividends or upon
22 dissolution for shares of any other class with higher
23 preferences.

24 (d) The plan is approved if both of the following
25 conditions are met with respect to each constituent
26 association:

1 (1) notice of the meeting to vote on the plan, the plan
2 of merger or consolidation, and a description of the method
3 of voting have been sent to all members, and to all
4 affected stockholders entitled either to vote on the plan
5 or to receive payment of fair cash value under subsection
6 (b);

7 (2) 60% of the member votes cast approve the plan, and
8 a simple majority of the votes cast by the affected
9 stockholders entitled to vote under subsection (b) approve
10 the plan.

11 (e) Notwithstanding subsection (d), no vote of the members
12 or stockholders of a constituent association shall be necessary
13 to approve a merger of a wholly owned subsidiary association
14 with and into its parent cooperative or a merger or a
15 consolidation of 2 or more subsidiary associations that are
16 wholly owned by a cooperative.

17 (f) After approval of a plan under this Section, but before
18 the merger or consolidation is effective, the plan may be
19 amended in accordance with any provision for amendment set
20 forth in the plan, provided that an amendment made subsequent
21 to adoption of the plan by the members of any constituent
22 association shall not do any of the following:

23 (1) change the membership rights, or the amount or kind
24 of stock, securities, cash, property, or other rights to be
25 received, exchanged, or converted in the merger or
26 consolidation;

1 (2) change the articles of incorporation or bylaws of
2 the surviving or new association as provided for in the
3 plan;

4 (3) change any provision of the plan with respect to
5 the rights of members or the manner of voting in the
6 surviving or new association.

7 (g) After approval of a plan under this Section, but before
8 the merger or consolidation is filed with the Secretary of
9 State, the merger or consolidation may be abandoned in
10 accordance with any provision for abandonment set forth in the
11 plan.

12 (h) The merger or consolidation shall take effect in
13 accordance with Sections 145 and 150.

14 Section 140. Association; merger or consolidation with
15 foreign associations.

16 (a) A cooperative may merge or consolidate with one or more
17 foreign associations, if such merger or consolidation is
18 permitted by the laws under which each constituent cooperative
19 exists and the foreign association complies with this Section.

20 (b) Each constituent cooperative shall comply with Section
21 135 with respect to form and approval of a plan of merger or
22 consolidation, and each constituent foreign association shall
23 comply with the applicable provisions of the laws under which
24 it exists, except that the plan of merger or consolidation, by
25 whatever name designated, shall comply with subsections (c) and

1 (d) of this Section.

2 (c) The plan of merger or consolidation shall set forth all
3 of the following:

4 (1) The names of the states and the laws under which
5 each constituent cooperative exists.

6 (2) All statements and matters required to be set forth
7 in plans or agreements of merger or consolidation by the
8 laws under which any constituent cooperative exists.

9 (3) A statement as to whether the surviving or new
10 cooperative is to be an association or a foreign
11 association.

12 (4) If the surviving or new cooperative is to be a
13 foreign association:

14 (A) the place where the principal office of the
15 surviving or new foreign association is to be located
16 in the state in which the surviving or new foreign
17 association is to exist;

18 (B) the consent by the surviving or new foreign
19 association that it may be sued and served with process
20 in this State in any proceeding for the enforcement of
21 any obligation of any constituent association;

22 (C) the consent by the surviving or new foreign
23 association that: (i) it shall be subject to the
24 provisions applicable to foreign corporations under
25 the Business Corporation Act of 1983, substituting the
26 word "association" for "corporation", and, with

1 respect to the name of a foreign association,
2 substituting references to Section 20 of this Act for
3 references to Section 4.05 of the Business Corporation
4 Act of 1983; and (ii) it shall be subject to all
5 provisions of this Act unless otherwise provided; and

6 (D) if it is desired that the surviving or new
7 foreign association exercise its corporate privileges
8 in this State as a foreign entity and that the foreign
9 association qualifies under Section 5 of this Act.

10 (d) The plan also may set forth other provisions permitted
11 by the laws of any state in which any constituent cooperative
12 exists.

13 (e) If the surviving or new cooperative is a foreign
14 association, the merger or consolidation shall take effect in
15 accordance with the applicable provisions of the laws under
16 which it exists and in accordance with Section 150.

17 Section 145. Effective date of merger or consolidation.

18 (a) Unless a later date, which may not be more than 30 days
19 after the date of filing, is specified in the plan, a merger or
20 consolidation under Section 135 is effective when the articles
21 of merger or consolidation and plan of merger or consolidation
22 are filed in accordance with Section 150.

23 (b) In the case of a merger, the surviving association is
24 the one designated in the plan. In the case of a consolidation,
25 the new association is the one designated in the plan. The

1 separate existence of all constituent associations in the
2 agreement, except the surviving or new association, ceases upon
3 the effective date of the merger or consolidation.

4 (c) The surviving or new association possesses all the
5 rights and all the property of each constituent association,
6 and is responsible for all their obligations. Title to any
7 property is vested in the surviving or new association with no
8 reversion or impairment of the property caused by the merger or
9 consolidation. A merger or consolidation shall not be
10 considered an assignment. No right of any creditor shall be
11 impaired by the merger or consolidation without the creditor's
12 consent.

13 Section 150. Articles of merger or consolidation; filing.
14 Upon adoption of a plan of merger or consolidation under
15 Section 135 or Section 140, articles of merger or
16 consolidation, signed by any authorized officer or
17 representative of each constituent association, shall, along
18 with a copy of the plan of merger or consolidation, be filed
19 with the Secretary of State on a form prescribed by the
20 Secretary of State that sets forth the following:

21 (1) the name and form of each constituent association
22 and the State law under which each constituent association
23 exists;

24 (2) a statement that each constituent association has
25 adopted the plan of merger or consolidation, the manner of

1 adoption, and that the plan was adopted in compliance with
2 the laws applicable to each constituent association;

3 (3) the effective date of the merger or consolidation,
4 which date may be on or after the date of filing of the
5 articles;

6 (4) in the case of a merger, a statement that one or
7 more specified constituent associations will be merged
8 into a specified surviving association or, in the case of a
9 consolidation, a statement that the constituent
10 associations will be consolidated into a new association;

11 (5) the name and address of the registered agent upon
12 whom any process, notice, or demand against any constituent
13 association, or the surviving or new association, may be
14 served; and

15 (6) the manner and basis of converting the shares or
16 membership interests of each merging or consolidating
17 association.

18 In the case of a merger into an association, any amendments
19 to the articles of incorporation or the articles of
20 organization of the surviving association shall be filed with
21 the articles of consolidation.

22 In the case of a consolidation to form a new domestic
23 association, the articles of incorporation of the new
24 association shall be filed with the articles of consolidation.

25 If the surviving or new cooperative is a foreign
26 association that desires to transact business in this State as

1 a foreign association, the articles shall be accompanied by an
2 application for authority to transact business in this State
3 pursuant to Section 13.15 of the Business Corporation Act of
4 1983.

5 Section 155. Plan of division.

6 (a) An association may divide itself into 2 or more
7 associations. A written plan of division shall be approved by
8 the association's board. Such plan shall set forth all the
9 terms of the division and the proposed effect of the division
10 on all members and stockholders of the association. The plan
11 also shall contain the articles of incorporation and bylaws of
12 each association resulting from the division, which articles
13 and bylaws shall conform to the requirements for associations
14 organized under this Act.

15 (b) If the plan of division provides that a holder of stock
16 other than membership stock or patronage stock will be
17 affected, the following apply:

18 (1) Unless the board provides that item (2) of this
19 subsection applies, the affected stockholder shall be
20 entitled to cast one vote on the plan of division
21 regardless of the par or stated value, the number of
22 shares, or the number of affected classes of the stock
23 held.

24 (2) The board may provide that a stockholder otherwise
25 entitled to vote under item (1) of this subsection shall

1 instead be entitled to payment of fair cash value of the
2 affected stock held by the stockholder in accordance with
3 Section 170.

4 (3) A member holding stock affected by a proposed plan
5 of division may vote only as a member and shall not be
6 entitled to vote or demand fair cash value as an affected
7 stockholder.

8 (c) For purposes of this Section, a holder of stock is
9 affected as to any class of stock owned by the holder only if
10 the plan of division does any of the following:

11 (1) Decreases the dividends to which that class may be
12 entitled or changes the method by which the dividend rate
13 on that class is fixed.

14 (2) Provides any additional restriction on rights to
15 transfer shares of that class.

16 (3) Gives to another existing or any new class of stock
17 or equity interest not previously entitled thereto any
18 preference, as to dividends or upon dissolution, that is
19 higher than preferences of that class in a resulting
20 association.

21 (4) Changes the par value of shares of that class or of
22 any other class having the same or higher preferences as to
23 dividends or upon dissolution.

24 (5) Increases the aggregate number of authorized
25 shares of any other class having the same or higher
26 preferences as to dividends or upon dissolution in the

1 resulting associations beyond the authorization for such
2 classes in the original association.

3 (6) Requires or permits an exchange of shares of any
4 class with lower preferences as to dividends or upon
5 dissolution in the original association for shares of any
6 other class with higher preferences in a resulting
7 association.

8 (d) The plan of division is approved if both of the
9 following conditions are met:

10 (1) Notice of the meeting to vote on the plan, the plan
11 of division, and a description of the method of voting have
12 been sent to all members and to all affected stockholders
13 entitled either to vote on the plan or to receive payment
14 of fair cash value under subsection (b);

15 (2) 60% of the member votes cast approve the plan, and
16 a simple majority of the votes cast by the affected
17 stockholders entitled to vote under subsection (b) approve
18 the plan.

19 (e) After approval of a plan of division under this
20 Section, but before the division is effective, the plan may be
21 amended or abandoned in accordance with a provision for
22 amendment or abandonment set forth in the plan, provided that
23 an amendment made subsequent to approval of the plan by the
24 members shall not do any of the following:

25 (1) Change the membership rights, or the amount or kind
26 of stock, securities, cash, property, or other rights to be

1 received, exchanged, or converted in the division.

2 (2) Change the articles of incorporation or bylaws of
3 the resulting associations as provided for in the plan.

4 (3) Change any provision of the plan with respect to
5 the rights of members or the manner of voting in the
6 resulting associations.

7 (f) Upon approval of a plan of division, the articles of
8 division along with the plan of division, but not including the
9 association's bylaws, signed by any authorized officer of the
10 original association, shall be filed with the Secretary of
11 State on a form prescribed by the Secretary of State setting
12 forth the following:

13 (1) The name of the original association and the name
14 of each resulting association.

15 (2) A statement that the original association has
16 adopted the plan of division, the manner of adoption, and
17 that the plan was adopted in compliance with this Section.

18 (3) The effective date of the division, which date may
19 be on or up to 30 days after the date of filing of the
20 articles.

21 (4) A statement that the original association will be
22 divided into specified resulting associations.

23 (5) The name and address of the registered agent upon
24 whom any process, notice, or demand against the original
25 association may be served, and the name and address of a
26 registered agent for each resulting association upon whom

1 process, notice, or demand against that resulting
2 association may be served.

3 (6) The manner and basis of converting the shares or
4 membership interests of each merging or consolidating
5 association.

6 (g) The articles of incorporation of each of the resulting
7 associations shall be filed with the articles of division.

8 Section 160. Conversions.

9 (a) A domestic corporation that is not an association may
10 convert itself into an association by adopting an amendment to
11 its articles of incorporation in which it elects to become
12 subject to this Act, together with any changes in its articles
13 of incorporation and bylaws required by this Act and any other
14 desirable changes permitted by this Act. The amendment shall be
15 adopted and filed in the manner provided by the law under which
16 the corporation exists.

17 (b) An association may convert itself to a domestic
18 corporation by complying with the provisions of subsection (d)
19 of Section 1.70 of the Business Corporation Act of 1983.

20 Section 165. Setting aside reorganizations. An action,
21 other than an action initiated by the State, or any other state
22 or federal governmental agency, to set aside a merger,
23 consolidation, division, or conversion of an association, on
24 the ground that any law has not been complied with, shall be

1 brought within 90 days after the effective date of the merger,
2 consolidation, division, or conversion, or such action shall be
3 forever barred unless it is initiated by a state or federal
4 governmental agency.

5 Section 170. Written demand for payment of fair cash value
6 of stock.

7 (a) In order to obtain payment of the fair cash value, a
8 stockholder entitled to payment of the fair cash value of stock
9 under Section 40, 135, 140, or 155 shall deliver a written
10 demand for payment of the fair cash value of the stock to the
11 association no later than 15 days after notice is sent to
12 members and stockholders in accordance with Section 40, 135,
13 140, or 155, as the case may be. The written demand shall state
14 the name and address of the stockholder, the number and class
15 of the stock for which fair cash value is demanded, and the
16 amount claimed by the stockholder to be the fair cash value of
17 the stock. Delivery of written demand for payment of fair cash
18 value of stock in accordance with this Section is sufficient if
19 delivered to the association or to the surviving or new
20 association or entity resulting from the merger,
21 consolidation, division, or conversion, whether the demand is
22 delivered before, on, or after the effective date of the
23 action. If written demand is not timely delivered in conformity
24 with this Section, the stockholder's right to payment of fair
25 cash value with respect to the amendment to the articles of

1 incorporation, agreement of merger or consolidation, plan of
2 division, or conversion shall be barred.

3 (b) If a timely demand is delivered in accordance with this
4 Section, fair cash value of the stock shall be determined and
5 paid to the stockholder in accordance with the following
6 procedures:

7 (1) The association or the surviving, new, or resulting
8 association or entity shall send a written acknowledgment
9 of receipt of the demand for fair cash value to the address
10 specified in the demand no later than 15 days after receipt
11 of the demand. If the board of the association or the
12 surviving, new, or resulting association or entity
13 believes that the demand has failed to comply with the
14 requirements of this Section, the acknowledgment shall
15 state any such defects. The acknowledgment also shall state
16 what the board believes to be the fair cash value of the
17 stock that is the subject of the demand. If the articles of
18 incorporation of the constituent or original association
19 provide a value for the stock upon redemption, the fair
20 cash value of the stock presumptively shall be the lesser
21 of the redemption value or the fair market value of the
22 stock immediately prior to the merger, consolidation,
23 division, or conversion.

24 (2) The stockholder shall not transfer, encumber,
25 pledge, or otherwise dispose of the stock that is the
26 subject of the demand for fair cash value, or any

1 certificate representing the stock, until the demand is
2 finally resolved by agreement, withdrawal, or final
3 judicial determination.

4 (3) If the association's articles of incorporation or
5 bylaws provide a reasonable basis for determining and
6 paying the fair cash value of the stock that is the subject
7 of the demand for fair cash value, or if the association or
8 the surviving, new, or resulting cooperative and the
9 demanding stockholder reach an agreement on the fair cash
10 value of the stock within 3 months after delivery of the
11 demand for fair cash value, the fair cash value of the
12 stock shall be determined in accordance with the
13 constituent or original association's articles of
14 incorporation or bylaws or as agreed upon, as the case may
15 be. The association shall thereupon tender payment of the
16 fair cash value so determined to the stockholder within 30
17 days of delivery of any certificates representing the stock
18 or the stockholder's written waiver and release of claim to
19 all rights to the stock to the association or the
20 surviving, new, or resulting cooperative. Without
21 precluding other possible reasonable bases for determining
22 fair cash value of stock under this Section, a provision in
23 the constituent or original association's articles of
24 incorporation or bylaws that fair cash value shall be
25 determined by mediation or final and binding arbitration,
26 or that fair cash value shall be the lesser of par value,

1 book value, or fair market value, shall be considered a
2 reasonable basis for determining and paying the fair cash
3 value of stock.

4 (c) The right of a demanding stockholder to receive the
5 fair cash value of stock as to which the stockholder seeks
6 relief and the obligation of the association or the surviving,
7 new, or resulting cooperative to furnish the fair cash value
8 for those interests terminate if any of the following applies:

9 (1) The demanding stockholder fails to comply with this
10 Section.

11 (2) The association abandons the amendment of
12 articles, merger, consolidation, division, or conversion
13 or is finally enjoined or prevented from taking such
14 action.

15 (3) The demanding stockholder withdraws the demand for
16 fair cash value with consent of the association.

17 (4) The demanding stockholder attempts to sell,
18 transfer, or encumber the stock which is the subject of the
19 demand prior to final determination of its fair cash value
20 under this Section or a final judicial determination.

21 (5) All of the following apply:

22 (A) the articles of incorporation or bylaws of the
23 association do not provide a reasonable basis for
24 determining and paying fair cash value to an affected
25 stockholder;

26 (B) the association and the affected stockholder

1 have not agreed upon the fair cash value of the stock
2 which is the subject of the demand;

3 (C) the affected stockholder does not file a timely
4 complaint for judicial determination.

5 (d) The fair cash value that is agreed upon by the affected
6 stockholder and the association, or determined using a
7 reasonable basis for determining and paying fair cash value in
8 the association's articles of incorporation or bylaws, or fixed
9 by a court shall be paid within 30 days as follows:

10 (1) immediately to the holder of uncertificated stock;

11 or

12 (2) upon and simultaneously with the surrender of
13 certificates representing certificated stock.

14 Section 175. Disposing of assets of association.

15 (a) As used in this Section, "substantially all" means more
16 than two-thirds of the association's assets, measured, in the
17 board's discretion, either by value as recorded in the books
18 and records of the association or by fair market value.

19 (b) Unless the articles of incorporation or the bylaws of
20 an association otherwise provide, a lease, sale, exchange,
21 transfer, or other disposition of any assets of an association
22 may be made upon terms and for consideration which may consist,
23 in whole or in part, of money or other property, including
24 shares or other securities or promissory obligations of any
25 association or entity, as may be authorized by the board. If a

1 lease, sale, exchange, transfer, or other disposition, or a
2 series of such transactions, would dispose of all or
3 substantially all of the assets of the association, then the
4 disposition may be made only upon a written plan of disposition
5 prepared by the board or by a committee selected by the board
6 for that purpose, and adopted in the same manner as provided
7 for the adoption of a resolution of dissolution in Section 180.
8 A plan of disposition shall set forth a general description or
9 summary of the assets subject to disposition; the method of
10 disposition; the intended transferee of the assets, if known to
11 the board; and a general description of any material effect the
12 board believes the disposition will have on the interests of
13 the members and stockholders. Notice of a meeting of the
14 members at which a plan of disposition will be voted on shall
15 be given to all members, whether or not entitled to vote at the
16 meeting. The notice shall be accompanied by a copy or summary
17 of the plan of disposition and a ballot for those members
18 entitled to vote on the plan.

19 (c) The association, by its board, may abandon a plan of
20 disposition, subject to the contract rights of other persons,
21 if the power of abandonment is conferred upon the board either
22 by the terms of the transaction or in the plan of disposition.

23 (d) An action to set aside a disposition of assets by an
24 association, on the ground that any law applicable to the
25 lease, sale, exchange, transfer, or other disposition of all or
26 substantially all the assets of the association has not been

1 complied with, shall be brought within 90 days after such
2 transaction, or the action is forever barred.

3 Section 176. Grounds for administrative dissolution. The
4 Secretary of State may dissolve any association
5 administratively if:

6 (1) it has failed to file its annual report as required
7 by this Act;

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 in this Act for filing such report;

11 (3) it has failed to pay any fees, taxes, or charges
12 prescribed by this Act;

13 (4) it has misrepresented any material matter in any
14 application, report, affidavit, or other document filed by
15 the association pursuant to this Act;

16 (5) it has failed to appoint and maintain a registered
17 agent in this State;

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

22 (7) upon the failure of an officer or director to whom
23 interrogatories have been propounded by the Secretary of
24 State as provided in this Act, to answer the same fully and
25 to file such answer in the office of the Secretary of

1 State; or

2 (8) if the answer to such interrogatories discloses, or
3 if the fact is otherwise ascertained, that the proportion
4 of the sum of the paid-in capital of such association
5 represented in this State is greater than the amount on
6 which such association has theretofore paid fees and
7 franchise taxes, and the deficiency therein is not paid.

8 Section 177. Procedure for administrative dissolution.

9 (a) After the Secretary of State determines that one or
10 more grounds exist under Section 176 for the administrative
11 dissolution of an association, he or she shall send by regular
12 mail to each delinquent association a Notice of Delinquency to
13 its registered office, or, if the association has failed to
14 maintain a registered office, then to the president or other
15 principal officer at the last known address of said officer.

16 (b) If the association does not correct the default
17 described in paragraphs (1) through (5) of Section 176 within
18 90 days following such notice, the Secretary of State shall
19 thereupon dissolve the association by issuing articles of
20 dissolution that recites the ground or grounds for dissolution
21 and its effective date. If the association does not correct the
22 default described in paragraphs (6) through (8) of Section 176
23 within 30 days following such notice, the Secretary of State
24 shall thereupon dissolve the association by issuing articles of
25 dissolution as herein prescribed. The Secretary of State shall

1 file the original of the articles in his or her office and mail
2 one copy to the association at its registered office or, if the
3 association has failed to maintain a registered office, then to
4 the president or other principal officer at the last known
5 address of said officer.

6 (c) The administrative dissolution of an association
7 terminates its corporate existence and such a dissolved
8 association shall not thereafter carry on any business;
9 however, such a dissolved association may take all action
10 authorized under Section 190 that is necessary or appropriate
11 to wind up and liquidate its business and affairs.

12 Section 178. Administrative dissolution; association name.
13 The Secretary of State shall not allow another association to
14 use the name of an association that has been administratively
15 dissolved until 3 years have elapsed following the date of
16 issuance of the articles of dissolution. If the association
17 that has been administratively dissolved is reinstated within 3
18 years after the date of issuance of the articles of
19 dissolution, the association shall continue under its previous
20 name without impacting its continuous legal status, unless the
21 association petitions to change its name upon reinstatement.

22 Section 180. Voluntary dissolution.

23 (a) An association may be dissolved voluntarily in the
24 manner provided in this Section.

1 (b) A resolution of dissolution for an association shall
2 state both of the following:

3 (1) that the association elects to be dissolved; and

4 (2) any additional provision considered necessary with
5 respect to the proposed dissolution and winding up.

6 (c) Before subscriptions for membership and any stock or
7 other ownership interest have been received, the incorporators
8 or a majority of the incorporators may adopt, by a writing
9 signed by them, a resolution of dissolution.

10 (d) The directors may adopt a resolution of dissolution in
11 the following cases:

12 (1) when the association has been adjudged bankrupt or
13 has made a general assignment for the benefit of creditors;

14 (2) by leave of the court, when a receiver has been
15 appointed in a general creditors' suit or in any suit in
16 which the affairs of the association are to be wound up;

17 (3) when substantially all of the assets have been sold
18 at judicial sale or otherwise; or

19 (4) when the period of existence of the association
20 specified in its articles has expired.

21 (e) At a meeting held for such purpose, the members may
22 adopt a resolution of dissolution by the affirmative vote of
23 60% of the member votes cast on the proposal or, if the
24 articles provide or permit, by the affirmative vote of a
25 greater or lesser proportion though not less than a majority,
26 of the voting power, of any particular class as is required by

1 the articles of incorporation. Notice of the meeting of the
2 members shall be given to all members and stockholders whether
3 or not entitled to vote.

4 (f) Upon the adoption of a resolution of dissolution,
5 articles of dissolution shall be filed with the Secretary of
6 State, on a form prescribed by the Secretary of State.

7 (g) When a resolution of dissolution has been adopted by
8 incorporators pursuant to subsection (c), articles of
9 dissolution shall be signed by not less than a majority of the
10 incorporators and filed with the Secretary of State on a form
11 prescribed by the Secretary of State.

12 (h) Upon the filing of articles of dissolution, the
13 association shall be dissolved.

14 Section 185. Public notice of voluntary dissolution.
15 Following the filing of the articles of dissolution, the
16 directors, members, or incorporators who filed the articles of
17 dissolution, as the case may be, shall cause a notice of
18 voluntary dissolution to be published once a week on the same
19 day of each week for 2 successive weeks, in a newspaper
20 published and of general circulation in the county in which the
21 principal place of business of the association was to be or is
22 located and shall cause written notice of dissolution to be
23 given to all known creditors of, and to all known claimants
24 against, the dissolved association.

1 Section 190. Action to wind up affairs or obtain
2 reinstatement of articles.

3 (a) When an association is dissolved administratively or
4 voluntarily, when a final order of a court is made dissolving
5 an association under Section 195, or when the period of
6 existence of the association specified in its articles of
7 incorporation has expired, the association shall cease to carry
8 on business and shall do only such acts as are required to wind
9 up its affairs or to obtain reinstatement if permitted under,
10 and in accordance with, Section 50.

11 (b) Any claim existing or action or proceeding pending by
12 or against the association or which would have accrued against
13 it may be prosecuted to judgment, with right of appeal as in
14 other cases, but any proceeding, execution, or process, or the
15 satisfaction or performance of any order, judgment, or decree,
16 may be stayed as provided in Section 195.

17 (c) Any process, notice, or demand against the association
18 may be served by delivering a copy to an officer, director,
19 liquidator, or person having charge of its assets or, if no
20 such person can be found, to the registered agent.

21 (d) The directors of the association or their successors
22 shall act as the board of directors in accordance with the
23 articles of incorporation and bylaws until the affairs of the
24 association are completely wound up. Subject to the orders of
25 courts of this State having jurisdiction over the association,
26 the directors shall proceed as speedily as is practicable to a

1 complete winding up of the affairs of the association and, to
2 the extent necessary or expedient to that end, shall exercise
3 all the authority of the association. Without limiting the
4 generality of such authority, the directors may fill vacancies;
5 elect officers; carry out contracts of the association; make
6 new contracts; borrow money; mortgage or pledge the property of
7 the association as security; sell its assets at public or
8 private sale; make conveyances in the association's name; lease
9 real estate for any term, including 99 years renewable forever;
10 settle or compromise claims in favor of or against the
11 association; appoint or employ one or more persons as
12 liquidators to wind up the affairs of the association with
13 authority as the directors see fit to grant; cause the title to
14 any of the assets of the association to be conveyed to such
15 liquidators for that purpose; apply assets to the payment of
16 obligations; and, after paying or adequately providing for the
17 payment of all known obligations of the association, distribute
18 the remainder of the assets either in cash or in kind among the
19 members, patrons, and stockholders according to their
20 respective rights and interests. In addition, the directors may
21 perform all other acts necessary or expedient to the winding up
22 of the affairs of the association.

23 (e) The directors, or any liquidator to whom the directors
24 grant such authority, in the course of winding up the
25 association's affairs, shall apply the assets of the
26 association in the following order:

1 (1) to expenses incidental to winding up the
2 association's affairs;

3 (2) to all legally enforceable liabilities and
4 obligations of the association due claimants and
5 creditors;

6 (3) to the stockholders, members, and patrons of the
7 association as provided in the association's articles of
8 incorporation or bylaws.

9 (f) Without limiting the authority of the directors, any
10 action within the purview of this Section that is authorized or
11 approved at a meeting of the members by 60% of the member votes
12 cast thereon shall be conclusive for all purposes upon all
13 members, patrons, and stockholders of the association.

14 (g) All deeds and other instruments of the association
15 shall be in the name of the association and shall be executed,
16 acknowledged, and delivered by the officers appointed by the
17 directors.

18 (h) At any time during the winding up of its affairs, the
19 association by its directors may make application to the court
20 of the county in this State in which the principal place of
21 business of the association is located to have the winding up
22 continued under supervision of the court, as provided in
23 Section 195. However, if the association has no principal place
24 of business in this State, the application described in this
25 Section may be made to a court in the county in this State
26 where the registered agent resides.

1 Section 195. Judicial liquidations.

2 (a) Without limiting the generality of its authority and
3 subject to subsection (b), the court of the county in this
4 State in which is located the principal place of business of a
5 voluntarily dissolved association or whose period of existence
6 has expired, upon the complaint of the association, or a
7 majority of the directors, or 10% of the members or 20 members,
8 whichever is less, and upon such notice to all the directors
9 and other persons interested as the court considers proper, at
10 any time may order and adjudge any of the following matters:

11 (1) The presentation and proof of all claims and
12 demands against the association and of all rights,
13 interests, or liens in or on any of its property; the
14 fixing of the time and the manner in which such proof shall
15 be made and the person to whom presentation shall be made;
16 and the barring from participation in any distribution of
17 assets of all persons failing to make and present proofs as
18 required by the order of the court.

19 (2) The stay of the prosecution of any proceeding
20 against the association or involving any of its property;
21 the requirement that the parties to the proceeding present
22 and prove their claims, demands, rights, interests, or
23 liens at the time and in the manner required of creditors
24 or others; or the grant of leave to bring or maintain an
25 independent proceeding to enforce liens.

1 (3) The settlement or determination of all claims of
2 every nature against the association or any of its
3 property; the determination of the assets required to be
4 retained to pay or provide for the payment of such claims
5 or any claim; the determination of the assets available for
6 distribution among and rights of members, patrons, and
7 stockholders; and the making of new parties to the
8 proceeding so far as the court considers proper for the
9 determination of all matters.

10 (4) The presentation and filing of intermediate and
11 final accounts of the directors or of the liquidators and
12 hearings on them; the allowance, disallowance, or
13 settlement of the accounts; and the discharge of the
14 directors, the liquidators, or any of them from their
15 duties and liabilities.

16 (5) The appointment of a special master commissioner to
17 hear and determine any matters with authority as the court
18 considers proper.

19 (6) The filling of any vacancies in the number of
20 directors or liquidators when the directors are unable to
21 act on the vacancies for want of a quorum or for any other
22 reason.

23 (7) The appointment of a receiver, in accordance with
24 the usage of a court in equitable matters, to wind up the
25 affairs of the association, to take custody of any of its
26 property, or for any other purpose.

1 (8) The issuance or entry of any injunction or any
2 other order that the court considers proper in the
3 administration of the trust involved in the winding up of
4 the affairs of the association and the giving of notice of
5 the entry of injunction or order.

6 (9) The allowance and payment of compensation to the
7 directors or any of them, to liquidators, to a receiver, to
8 the attorney for the complainant, or to any person properly
9 rendering services beneficial to the association or to
10 those interested in it.

11 (10) The entry of a judgment or decree that, if it so
12 provides, may operate as the deed or other instrument
13 ordered to be executed, or the appointment of a master to
14 execute such deed or instrument in the name of the
15 association with the same effect as if executed by an
16 authorized officer pursuant to authority conferred by the
17 directors or the members, patrons, and stockholders of the
18 association, whenever there is no officer or agent
19 competent to execute such deed or instrument, whenever the
20 association or its officers do not perform or comply with a
21 judgment or decree of court, or whenever the court
22 considers it proper.

23 (b) If the association has no principal place of business
24 in this State, without limiting the generality of its
25 authority, the court in the county in this State where the
26 registered agent resides may order and adjudge the matters

1 described in subsection (a).

2 (c) A judicial proceeding under this Section concerning the
3 winding up of the affairs of an association is a special
4 proceeding, and final orders in the proceeding may be vacated,
5 modified, or reversed on appeal pursuant to the Code of Civil
6 Procedure.

7 Section 200. Receiver; winding up affairs of association.

8 (a) Whenever, after an association is dissolved
9 voluntarily or the period of existence of an association has
10 expired, a receiver is appointed to wind up the affairs of the
11 association, all the claims, demands, rights, interests, or
12 liens of creditors, claimants, members, patrons, and
13 stockholders shall be determined as of the day on which the
14 receiver was appointed. Unless it is otherwise ordered, such
15 appointment vests in the receiver and successors of the
16 receiver the right to the immediate possession of all the
17 property of the association, which shall, if so ordered,
18 execute and deliver conveyances of such property to the
19 receiver.

20 (b) Any officer, director, member, or other person, whether
21 a resident of the state or a nonresident and however
22 interested, may be appointed as receiver.

23 (c) The receiver shall have all the authority vested in the
24 directors and officers of the association, shall exercise such
25 authority subject to such orders as are made by the court, and

1 may be required to qualify by giving bond to the State in such
2 amount as the court fixes, with surety to the satisfaction of
3 the clerk of the court, conditioned for the faithful discharge
4 of duties and for a due accounting for all money or property
5 received.

6 Section 205. Marketing agreements.

7 (a) A cooperative and any member may make marketing
8 agreements, whether written separately or contained in the
9 bylaws, in which the member agrees to do any of the following:

10 (1) sell, market, or deliver all or any specified part
11 of products produced or to be produced either by the member
12 or under the member's control, to or through the
13 cooperative or any facilities furnished by it;

14 (2) authorize the cooperative or any facilities
15 furnished by it to act for the member in any manner with
16 respect to all or any specified part of products produced
17 or to be produced either by the member or under the
18 member's control and any services to be furnished by the
19 member;

20 (3) buy or procure all or a specified part of goods or
21 services from or through the cooperative or any facilities
22 furnished by it; or

23 (4) authorize the cooperative or any facilities
24 furnished by it to act for the member in any manner in the
25 procurement of goods or services for the member.

1 (b) The term of marketing agreements may not exceed 10
2 years.

3 (c) A marketing agreement authorized by subsection (a) may
4 require that liquidated damages be paid by the member in the
5 event of a breach of the marketing agreement. Liquidated
6 damages shall be specific, reasonable sums. Any provisions for
7 liquidated damages shall be enforceable and not regarded as
8 penalties.

9 (d) If a member breaches or threatens to breach a marketing
10 agreement authorized by this Section, the cooperative shall be
11 entitled to an injunction to prevent the breach or any further
12 breach, and to a decree of specific performance, unless the
13 marketing agreement provides an alternative remedy or damages
14 are more practicable than specific performance under the
15 circumstances.

16 Section 210. Foreign association.

17 (a) Any foreign association may carry on any proper
18 activities in this State upon compliance with the provisions
19 applicable to foreign corporations under the Business
20 Corporation Act of 1983, substituting the word "association"
21 for "corporation", and, with respect to the name of a foreign
22 association, substituting references to Section 20 of this Act
23 for references to Section 4.05 of the Business Corporation Act
24 of 1983. Foreign associations desiring to sell memberships or
25 membership stock to residents of this State shall comply with

1 the disclosure requirements under Section 62. All contracts
2 that could be made by any association incorporated under this
3 Act and that are made by or with such foreign associations,
4 shall be enforceable in this State with all of the remedies
5 available at law or in equity.

6 (b) Except as otherwise provided herein, a foreign
7 cooperative has all the duties of and is entitled to all
8 rights, exemptions and privileges of a cooperative organized
9 under this Act, if it is authorized to do business in this
10 state under Article 13 of the Business Corporation Act of 1983.

11 Section 215. Membership in other organizations. An
12 association may organize, form, operate, own, control, have an
13 interest in, own stock of, or be a member of any other
14 cooperative, corporation, or other form of organization.

15 Section 220. Governing law; association organized under
16 the Co-operative Act.

17 (a) Before January 1, 2020, this Act governs only:

18 (1) an association formed on or after January 1, 2016;

19 and

20 (2) an association formed before January 1, 2016 which
21 elects, in the manner provided in its articles of
22 incorporation or by law for amending the articles of
23 incorporation, to be subject to this Act.

24 (b) On and after January 1, 2019, this Act governs all

1 associations.

2 (805 ILCS 310/Act rep.)

3 Section 900. The Co-operative Act is repealed on January 1,

4 2020.