



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5877

by Rep. Kenneth Dunkin

SYNOPSIS AS INTRODUCED:

New Act
805 ILCS 310/Act rep.

Creates the Cooperative Association Act. Provides that a cooperative association may be organized for any lawful purpose. Contains provisions regarding: powers; indemnification; insurance; names; articles of incorporation; meetings; bylaws; membership; voting; directors and officers; limitations on liability; contracts; records; reports; duties of the Secretary of State and recorders of deeds; dissolution; fees; assets; division of cooperatives; admission of foreign cooperatives; and other matters. Authorizes worker cooperatives. Provides that the Act does not apply to residential cooperatives. Repeals the Co-operative Act.

LRB098 20083 JLS 55341 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning business.

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

4 Section 1. Short title. This Act may be cited as the
5 Cooperative Association Act.

6 Section 5. Definitions. As used in this Act, unless the
7 context otherwise requires:

8 "Articles" means the articles of incorporation of a
9 cooperative, unless the context otherwise requires.

10 "Association" includes both cooperatives and foreign
11 cooperatives.

12 "Board" means the board of directors of a cooperative.

13 "Bylaws" means the bylaws of a cooperative.

14 "Cooperative" means an association incorporated under this
15 Act.

16 "Corporation" means a corporation and not an association.

17 "Foreign cooperative" means an association incorporated
18 under a cooperative law of another state that has members
19 residing within this State and that is operating on the
20 following cooperative basis:

21 (1) either no member of the foreign cooperative who is
22 an individual is allowed more than one vote because of the
23 amount of stock or membership capital the member owns

1 therein or the foreign cooperative does not pay dividends
2 on stock or membership capital in excess of 8% per year;
3 and

4 (2) the foreign cooperative does not deal in the
5 products of or for nonmembers to an amount greater in value
6 than such as are handled by it for members.

7 "Member" means a person who has been qualified and accepted
8 for membership in an association. If a cooperative has one or
9 more classes of members not entitled to vote, "member" or
10 "members", with respect to the right of a member to vote,
11 voting procedure, the required proportion of member votes,
12 actions that must or may be taken by members, the number of
13 members required for a quorum, and the eligibility of
14 directors, means a member or members entitled to vote, unless
15 the bylaws provide otherwise.

16 "Membership stock" means any class of stock, continuous
17 ownership of which is required for membership in a cooperative.

18 "Patronage" means business done by a patron with a
19 cooperative and, if the bylaws provide, labor performed for a
20 cooperative by a patron.

21 "Secretary" means the Illinois Secretary of State.

22 "Security" means any indebtedness, capital stock, or other
23 equity interest in a cooperative's assets.

24 Section 10. Purposes. A cooperative association may be
25 organized under this Act for any lawful purpose or purposes.

1 Section 15. General powers. Unless otherwise prohibited by
2 its articles, a cooperative may:

3 (1) Exist perpetually.

4 (2) Sue and be sued, complain, and defend.

5 (3) Have a seal that may be altered at pleasure and use
6 the same by causing it, or a facsimile thereof, to be
7 impressed or affixed or in any other manner reproduced,
8 provided that the affixing of a corporate seal to an
9 instrument shall not give the instrument additional force
10 or effect or change the construction thereof.

11 (4) Make contracts, incur liabilities, and borrow
12 money; issue certificates representing indebtedness or
13 representing equity interests in its assets; acquire
14 property; and dispose of, mortgage, pledge, lease, or
15 otherwise use its property, or any interest therein,
16 wherever situated in any manner.

17 (5) Invest its funds, lend money for its purposes, and
18 hold any property as security for repayment.

19 (6) Have offices, conduct its business and affairs, and
20 exercise its powers in the United States or in any foreign
21 country.

22 (7) Elect officers and appoint agents, define their
23 duties, and fix their compensation.

24 (8) Make and alter bylaws consistent with its articles
25 and the laws of this State for the administration and

1 regulation of its affairs.

2 (9) Make donations for charitable, scientific,
3 educational, or religious purposes.

4 (10) Effect the forfeiture to the cooperative of
5 unclaimed funds, including all forms of distributions or
6 credits and unclaimed stock, membership fees, and
7 deposits, if all of the following conditions are met:

8 (A) No earlier than 3 years and no later than 5
9 years after the funds are first made available to their
10 owners, the board declares the funds forfeited to the
11 cooperative unless claimed by the date specified in
12 item (B).

13 (B) After the declaration under item (A), the
14 cooperative gives notice stating that the funds shall
15 be forfeited if not claimed by a specified date.

16 (C) The date specified in the notice under item (B)
17 is a business day at least 60 days after the date of
18 mailing of the notice.

19 (D) The notice under item (B) is mailed to the last
20 known address of each owner and is published in a
21 manner consistent with Section 5 of the Notice By
22 Publication Act on or before the date of mailing in a
23 newspaper published in the city, town, or county
24 containing the service area of the cooperative.

25 (E) The cooperative dedicates any funds remaining
26 unclaimed after the date specified in item (B) to

1 educational purposes, limited to providing
2 scholarships or loans to students, or to charitable
3 purposes, as the board determines, within one year
4 after the date the funds are declared forfeited under
5 item (A). In this item (E), "educational purposes" does
6 not include contributions as defined in Section 9-1.4
7 of the Election Code.

8 (11) Cease its activities and surrender its franchise.

9 (12) Exercise all powers necessary or convenient to
10 effect its purposes.

11 Section 20. Refunds after forfeiture. After a forfeiture
12 under Section 15, the owner of the forfeited funds may submit a
13 claim to the board. If the board determines that the person
14 owned the funds at the time of the forfeiture, it shall refund
15 the funds to the person.

16 Section 25. Restrictions on changes to articles. If the
17 articles contain a prohibition on changes to the provision
18 establishing the basis of distribution, no changes may be made
19 to the provision including by amendment, approval of a plan of
20 division, adoption of restated articles, approval of a plan of
21 merger or consolidation, and conversion to a non-stock
22 corporation. If, upon dissolution of a cooperative with
23 articles containing a prohibition on changes in the basis of
24 distribution, the distributions required are wholly or partly

1 impossible of execution, the whole or part of the net proceeds
2 shall be distributed as provided in Section 220.

3 Section 30. Definitions applicable to indemnification and
4 insurance provisions. As used in Sections 30 through 65:

5 "Cooperative" means a domestic cooperative and any
6 domestic or foreign predecessor of a domestic cooperative where
7 the predecessor cooperative's existence ceased upon the
8 consummation of a merger or other transaction.

9 "Director or officer" means any of the following:

10 (1) A natural person who is or was a director or
11 officer of a cooperative.

12 (2) A natural person who, while a director or officer
13 of a cooperative, is or was serving at the cooperative's
14 request as a director, officer, partner, trustee, member of
15 any governing or decision-making committee, manager,
16 employee, or agent of an association, corporation, limited
17 liability company, partnership, joint venture, trust, or
18 other enterprise.

19 (3) A natural person who is or was the chief executive,
20 managerial employee of a cooperative, regardless of the
21 person's title.

22 (4) Unless the context requires otherwise, the estate
23 or personal representative of a director or officer.

24 "Expenses" means fees, costs, charges, disbursements,
25 attorney's fees, and any other expenses incurred in connection

1 with a proceeding.

2 "Liability" means the obligation to pay a judgment,
3 settlement, forfeiture, or fine and costs, fees, and surcharges
4 imposed under the Clerks of Courts Act.

5 "Party" means a natural person who was or is, or who is
6 threatened to be made, a named defendant or respondent in a
7 proceeding.

8 "Proceeding" means any threatened, pending, or completed
9 civil, criminal, administrative, or investigative action,
10 suit, arbitration, or other proceeding, whether formal or
11 informal, that involves foreign, federal, State, or local law
12 and that is brought by or in the right of the cooperative or by
13 any other person.

14 Section 35. Mandatory indemnification.

15 (a) A cooperative shall indemnify a director or officer, to
16 the extent he or she has been successful on the merits or
17 otherwise in the defense of a proceeding, for all reasonable
18 expenses incurred in the proceeding if the director or officer
19 was a party because he or she is a director or officer of the
20 cooperative.

21 (b) In cases not included under subsection (a), a
22 cooperative shall indemnify a director or officer against
23 liability incurred by the director or officer in a proceeding
24 to which the director or officer was a party because he or she
25 is a director or officer of the cooperative, unless liability

1 was incurred because the director or officer breached or failed
2 to perform a duty he or she owed to the cooperative and the
3 breach or failure to perform constituted the following:

4 (1) a willful failure to deal fairly with the
5 cooperative, its members, or stockholders in connection
6 with a matter in which the director or officer has a
7 material conflict of interest;

8 (2) a violation of criminal law, unless the director or
9 officer had reasonable cause to believe his or her conduct
10 was lawful or no reasonable cause to believe his or her
11 conduct was unlawful;

12 (3) a transaction from which the director or officer
13 derived an improper personal profit; or

14 (4) willful misconduct.

15 Determination of whether indemnification is required under
16 this subsection shall be made under Section 40 of this Act.

17 The termination of a proceeding by judgment, order,
18 settlement, or conviction or upon a plea of no contest or an
19 equivalent plea does not, by itself, create a presumption that
20 indemnification of the director or officer is not required
21 under this subsection.

22 (c) A director or officer who seeks indemnification under
23 this Section shall make a written request to the cooperative.

24 (d) Indemnification under this Section is not required if
25 the director or officer has previously received
26 indemnification or allowance of expenses from any person,

1 including the cooperative, in connection with the same
2 proceeding.

3 Section 40. Determination of right to indemnification.
4 Unless otherwise provided by the articles or bylaws or by
5 written agreement between the director or officer and the
6 cooperative, the director or officer seeking indemnification
7 under Section 35 of this Act shall select one of the following
8 means for determining his or her right to indemnification:

9 (1) by majority vote of a quorum of the board
10 consisting of directors not at the time parties to the same
11 or related proceedings. If a quorum of disinterested
12 directors cannot be obtained, by majority vote of a
13 committee duly appointed by the board and consisting solely
14 of 2 or more directors not at the time parties to the same
15 or related proceedings. Directors who are parties to the
16 same or related proceedings may participate in the
17 designation of members of the committee;

18 (2) by independent legal counsel selected by a quorum
19 of the board or its committee in the manner prescribed in
20 item (1) or, if unable to obtain such a quorum or
21 committee, by a majority vote of the full board, including
22 directors who are parties to the same or related
23 proceedings;

24 (3) by a panel of 3 arbitrators consisting of one
25 arbitrator selected by those directors entitled under item

1 (2) to select independent legal counsel, one arbitrator
2 selected by the director or officer seeking
3 indemnification, and one arbitrator selected by the 2
4 arbitrators previously selected;

5 (4) by a majority vote of a quorum of the members;
6 however, members who are at the time parties to the same or
7 related proceedings, whether as plaintiffs or defendants
8 or in any other capacity, may not vote in making the
9 determination;

10 (5) by a court under Section 55 of this Act; or

11 (6) by any other method provided for in any additional
12 right to indemnification permitted under Section 50 of this
13 Act.

14 Section 45. Allowance of expenses as incurred. Upon
15 written request by a director or officer who is a party to a
16 proceeding, a cooperative may pay or reimburse the director's
17 reasonable expenses as incurred if the director or officer
18 provides the cooperative with all of the following:

19 (1) a written affirmation of his or her good faith
20 belief that he or she has not breached or failed to perform
21 his or her duties to the cooperative; and

22 (2) a written undertaking, executed personally or on
23 his or her behalf, to repay the allowance and, if required
24 by the cooperative, to pay reasonable interest on the
25 allowance to the extent that it is ultimately determined

1 under Section 40 of this Act that indemnification under
2 subsection (b) of Section 35 is not required and that
3 indemnification is not ordered by a court under item (2) of
4 subsection (b) of Section 55. The undertaking under this
5 item (2) shall be an unlimited general obligation of the
6 director or officer and may be accepted without reference
7 to his or her ability to repay the allowance. The
8 undertaking may be secured or unsecured.

9 Section 50. Additional rights to indemnification and
10 allowance of expenses.

11 (a) Except as provided in subsection (b), Sections 35 and
12 45 do not preclude any additional right to indemnification or
13 allowance of expenses that a director or officer may have under
14 any of the following:

15 (1) the articles or bylaws;

16 (2) a written agreement between the director or officer
17 and the cooperative;

18 (3) a resolution of the board; or

19 (4) a resolution, after notice, adopted by a majority
20 vote of members who are entitled to vote.

21 (b) Regardless of the existence of an additional right
22 under subsection (a), the cooperative may not indemnify a
23 director or officer or permit a director or officer to retain
24 any allowance of expenses unless it is determined by or on
25 behalf of the cooperative that the director or officer did not

1 breach or fail to perform a duty he or she owed to the
2 cooperative which constituted conduct under item (1) of
3 subsection (b) of Section 35. A director or officer who is a
4 party to the same or a related proceeding for which
5 indemnification or an allowance of expenses is sought may not
6 participate in a determination under this subsection.

7 (c) Sections 30 through 55 do not affect a cooperative's
8 power to pay or reimburse expenses incurred by a director or
9 officer in any of the following circumstances:

10 (1) as a witness in a proceeding to which he or she is
11 not a party; or

12 (2) as a plaintiff or petitioner in a proceeding
13 because he or she is or was an employee, agent, director,
14 or officer of the cooperative.

15 Section 55. Court-ordered indemnification.

16 (a) Except as provided otherwise by written agreement
17 between the director or officer and the cooperative, a director
18 or officer who is a party to a proceeding may apply for
19 indemnification to the court conducting the proceeding or to
20 another court of competent jurisdiction. Application shall be
21 made for an initial determination by the court under item (5)
22 of Section 40, or for review by the court of an adverse
23 determination under item (1), (2), (3), (4), or (6) of Section
24 40. After receipt of an application, the court shall give any
25 notice it considers necessary.

1 (b) The court shall order indemnification if it determines
2 any of the following:

3 (1) That the director or officer is entitled to
4 indemnification under subsection (a) or (b) of Section 35.
5 If the court also determines that the cooperative
6 unreasonably refused the director's or officer's request
7 for indemnification, the court shall order the cooperative
8 to pay the director's or officer's reasonable expenses
9 incurred to obtain the court-ordered indemnification.

10 (2) That the director or officer is fairly and
11 reasonably entitled to indemnification in view of all the
12 relevant circumstances, regardless of whether
13 indemnification is required under subsection (b) of
14 Section 35.

15 Section 60. Indemnification and allowance of expenses of
16 employees and agents. A cooperative may indemnify and allow
17 reasonable expenses of an employee or agent who is not a
18 director or officer to the extent provided by the articles or
19 bylaws, by general or specific action of the board, or by
20 contract.

21 Section 65. Insurance. A cooperative may purchase and
22 maintain insurance on behalf of an individual who is an
23 employee, agent, director, or officer of the cooperative
24 against liability asserted against and incurred by the

1 individual in his or her capacity as an employee, agent,
2 director, or officer or arising from his or her status as an
3 employee, agent, director, or officer regardless of whether the
4 cooperative is required or authorized to indemnify or allow
5 expenses to the individual against the same liability under
6 Sections 35, 45, 50, and 60 of this Act.

7 Section 70. Incorporators. Five or more adults, of which
8 one must be a resident, may form a cooperative by signing,
9 acknowledging, and filing articles.

10 Section 75. Reserved or registered name. Sections 4.05 and
11 4.10 of the Business Corporation Act of 1983 apply to
12 cooperatives. A cooperative shall comply with those Sections
13 with the word "cooperative" being deemed the equivalent of the
14 words "corporation", "company", "incorporated", or "limited",
15 or an abbreviation of one of those words.

16 Section 80. Articles.

17 (a) The articles shall set forth:

18 (1) the name of the cooperative;

19 (2) the period of existence, which may be perpetual;

20 (3) the purposes for which organized. It is sufficient
21 to state that the cooperative may engage in any activity
22 within the purposes for which cooperatives may be
23 organized, and all such activities shall then be deemed

1 within its purposes, subject to express limitations;

2 (4) whether the cooperative is organized with or
3 without capital stock;

4 (5) the designation of classes of members, if more than
5 one;

6 (6) the number and par value of shares of each
7 authorized class of stock. If more than one class is
8 authorized, the designation, preferences, limitations, and
9 relative rights of each class shall also be set forth;

10 (7) which classes of stock are membership stock;

11 (8) as to each class of stock, the rate of dividend, or
12 that the rate of dividend may be fixed by the board, or
13 that no dividend will be paid. If the dividend on any class
14 of stock is to be cumulative, that fact shall also be
15 stated;

16 (9) any reservation of a right to acquire or recall any
17 stock;

18 (10) the basis of distribution of assets upon
19 liquidation and, if changes in the basis of distribution
20 are to be prohibited, a statement that this provision may
21 not be changed and a reference to the restriction under
22 Section 25;

23 (11) the complete address, including street number,
24 city, town, or village, county, and zip code of its
25 principal office or the name and complete address,
26 including street number, city, town, or village, county,

1 and zip code of its registered agent;

2 (12) the name and address of each incorporator; and

3 (13) the names and addresses of at least 5
4 incorporators who will act as the temporary board.

5 (b) It is not necessary to set forth in the articles any of
6 the powers granted by this Act. The articles may include
7 additional provisions, consistent with law, including
8 provisions that are required or permitted to be set forth in
9 the bylaws. Any provision required or permitted in the bylaws
10 has equal force and effect if stated in the articles. Whenever
11 a provision of the articles is inconsistent with a bylaw, the
12 articles control.

13 (c) The articles shall be filed and recorded as provided in
14 Section 235. The legal existence of a cooperative begins when
15 the Secretary files the articles. Upon the filing of the
16 articles, the Secretary shall issue a certificate of
17 incorporation. The Secretary shall forward within 5 days a
18 duplicate original of the articles to the recorder of deeds of
19 the county of the cooperative's principal office or registered
20 agent for recording.

21 (d) The certificate of incorporation shall be conclusive
22 evidence, except as against the State, that all conditions
23 precedent to the cooperative's existence have been met.

24 Section 85. Organization meetings.

25 (a) After articles have been filed, an organization meeting

1 of the temporary board shall be held at the call of a majority
2 of the incorporators or of a majority of the temporary
3 directors for the adoption of bylaws, election of temporary
4 officers, and transaction of other business.

5 (b) The first meeting of the members shall be called by the
6 temporary president or a majority of the temporary directors.
7 The meeting shall be held as soon as reasonably possible after
8 the organization meeting of the temporary board, but not later
9 than 6 months after filing the articles. Failure to hold the
10 meeting within the time specified does not affect the validity
11 of organization.

12 Section 90. Bylaws.

13 (a) The initial bylaws may be adopted by the temporary
14 board. Thereafter, bylaws may be adopted and amended only by
15 the members unless the members adopt a bylaw that permits the
16 board to make and amend specified bylaws.

17 (b) A bylaw adopted or amended by the board shall be
18 reported at the next regular member meeting. The bylaw shall be
19 at any time subject to amendment or repeal by the members.

20 (c) Unless the bylaws provide otherwise, a bylaw may be
21 adopted, amended, or repealed by a majority of the member votes
22 cast at a meeting.

23 Section 95. Principal office, registered agent, and
24 service of process.

1 (a) A cooperative shall maintain in the State either its
2 principal office or a registered agent.

3 (b) The board may establish or change the location of the
4 principal office or name and address of the registered agent by
5 causing a statement in writing to be filed and recorded as an
6 amendment to the articles as provided in Section 235. The
7 statement shall set forth the name of the cooperative and the
8 mailing address and county of its principal office or the name
9 and address, including the county, of the registered agent as
10 established or changed. If a statement under this subsection
11 results from the action of a governmental agency in changing
12 the address of the principal office or registered agent and
13 there is no corresponding change in physical location, these
14 facts shall be contained in the statement.

15 (c) A registered agent may resign by mailing a written
16 notice to both the Secretary and the cooperative. The
17 resignation becomes effective when the cooperative names a new
18 registered agent or 60 days after the receipt of notice by the
19 Secretary, whichever is sooner.

20 (d) Service of any process, notice, or demand upon a
21 cooperative may be made as provided in Section 5.25 of the
22 Business Corporation Act of 1983.

23 Section 100. Limitation on promotional expenses.
24 Cooperative funds may not be used, nor any stock issued, in
25 payment of any promotion expenses in excess of 5% of the

1 paid-up capital stock or membership fees.

2 Section 105. Membership.

3 (a) A cooperative shall be organized on a membership basis
4 with no capital stock or on a membership basis with capital
5 stock.

6 (b) A cooperative may have one or more classes of members.
7 The designation, qualifications, requirements, method of
8 acceptance, and incidents of membership of each class shall be
9 set forth in the bylaws. Any person, including a partnership,
10 incorporated or unincorporated association, limited liability
11 company, corporation, or body politic, may become a member in
12 accordance with the bylaws.

13 (c) No member may transfer his or her membership except as
14 permitted in the bylaws.

15 (d) The bylaws may provide for termination of membership
16 and the conditions and terms thereof.

17 Section 110. Voting.

18 (a) Except as permitted in this Section, no person other
19 than a member may vote at any member meeting. A person who has
20 not fully paid for a membership may not vote except as
21 expressly permitted in the bylaws. If the cooperative permits 2
22 or more persons to hold one membership, the bylaws may provide
23 how such member vote is to be cast.

24 (b) At any member meeting, each member entitled to vote

1 shall have one vote, except that the articles may permit either
2 or both:

3 (1) A member association to cast additional votes not
4 exceeding a number equal to its membership.

5 (2) A cooperative whose members include other
6 associations to base voting in whole or in part on a
7 patronage basis.

8 (c) Voting by proxy shall not be allowed in any
9 cooperative.

10 (d) The bylaws may provide for representation of members by
11 delegates apportioned territorially or by other districts or
12 units. The bylaws shall specify either that a delegate may cast
13 only one vote or that a delegate may cast one vote for each
14 member represented by the delegate. The procedures set forth in
15 this Act for voting by members apply to voting by delegates,
16 except as provided in all of the following:

17 (1) if any delegate who may cast only one vote is
18 permitted to vote on a matter, only delegates may vote on
19 that matter;

20 (2) if delegates may cast only one vote, in calculating
21 the required proportion of votes on a matter, the number of
22 delegate votes shall be used, but the number of delegates
23 required for a quorum shall be as specified in the bylaws;
24 and

25 (3) if the bylaws provide for representation of members
26 by delegates who may cast one vote for each member

1 represented by the delegate, in calculating the required
2 proportion of votes on a matter and the number of delegates
3 required for a quorum, the number of members represented by
4 each delegate shall be used.

5 (e) Members entitled to vote on a motion but absent from
6 the meeting at which the vote is taken may vote only as
7 follows:

8 (1) if a cooperative provides ballots for the vote on
9 the motion to the members together with notice of the
10 meeting at which the vote will be taken and exact copies of
11 the motion and any resolution to which it pertains, an
12 absent member may vote on the motion by submitting a signed
13 ballot. If a signed ballot has been submitted on a motion
14 under this subsection, neither the motion nor any
15 resolution to which it pertains may be amended; or

16 (2) if a cooperative makes available ballots for the
17 vote on the motion together with exact copies of the motion
18 and any resolution to which it pertains to any member
19 entitled to vote on the motion, but does not comply fully
20 with the requirements of item (1), an absent member may
21 vote on the motion by submitting a signed ballot; however,
22 the motion and any resolution to which it pertains may be
23 amended at the meeting, and, if the motion or resolution is
24 amended, the ballot is void and may not be counted on any
25 motion to amend or adopt as amended the motion or
26 resolution.

1 (f) The bylaws may provide for voting on the election or
2 removal of directors by signed ballots. Signed ballots may not
3 be used for this purpose unless the bylaws authorize and
4 prescribe the procedure for their use.

5 (g) The bylaws may set forth provisions, not inconsistent
6 with this Act, relating to the methods and procedures for
7 voting.

8 Section 115. Member meetings.

9 (a) Unless the bylaws provide otherwise, member meetings
10 shall be held at the principal office or such other place as
11 the board may determine.

12 (b) An annual member meeting shall be held at the time
13 fixed in or pursuant to the bylaws. In the absence of a bylaw
14 provision, the annual meeting shall be held within 6 months
15 after the close of the fiscal year at the call of the president
16 or board.

17 (c) Special member meetings may be called by the president,
18 board, or members having one-fifth of the votes entitled to be
19 cast at such meeting.

20 (d) Written notice, stating the place, day, and hour and,
21 in case of a special member meeting, the purposes for which the
22 meeting is called shall be given not less than 7 nor more than
23 30 days before the meeting at the direction of the person
24 calling the meeting. Notice need be given only to members
25 entitled to vote. Notice shall be given to members having

1 limited voting rights if they have or may have the right to
2 vote at the meeting.

3 (e) At any meeting when members are to be represented by
4 delegates, notice to such members may be given by notifying
5 such delegates and their alternates. Notice may consist of a
6 notice to all members or may be in the form of an announcement
7 at the meeting at which such delegates or alternates were
8 elected.

9 Section 120. Quorum.

10 (a) A quorum at a member meeting shall be 10% of the first
11 100 members plus 5% of additional members.

12 (b) Unless the bylaws fix a larger number of members to
13 constitute a quorum and except as provided in the bylaws in
14 accordance with subsection (d) of Section 110, a quorum shall
15 never be more than 50 members nor less than 5 members or a
16 majority of all members, whichever is smaller. Members
17 represented by signed ballots may be counted in computing a
18 quorum only on those motions for which the signed ballots were
19 submitted.

20 Section 125. Notice to members, stockholders, or other
21 persons; waiver.

22 (a) Whenever notice is required by this Act to be given to
23 any person, the notice shall be given either personally or by
24 mail. If mailed, the notice is given when it or a newsletter or

1 other publication of a cooperative or of an affiliated
2 organization that includes the notice is deposited in the
3 United States mail, with postage prepaid thereon, addressed to
4 such person at his or her address as it appears on the records
5 of the cooperative.

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

8 Section 130. Stock.

9 (a) A cooperative may be organized with or without capital
10 stock.

11 (b) A cooperative organized with capital stock may issue
12 the amount of stock stated in its articles. The stock may be
13 divided into 2 or more classes with such designations,
14 preferences, limitations, and relative rights as shall be
15 stated in the articles, except that:

16 (1) stock as such has no voting power, except as stated
17 in Section 210;

18 (2) stock without par value shall not be authorized or
19 issued; and

20 (3) the rate of dividends upon stock shall not exceed
21 8% of its par value for any year, but dividends may be
22 cumulative.

23 (c) The articles may require that members own one or more
24 shares of membership stock. The stock shall be issued or
25 transferred only to a person eligible to become a member and

1 only when the person satisfies other requisites for membership.
2 Unless restricted by the articles, stock other than membership
3 stock may be issued or transferred to any person.

4 (d) Each certificate for stock shall bear the manual or
5 facsimile signature of a principal officer and shall state:

6 (1) the name of the cooperative, the number, par value,
7 and class of the shares represented by the certificate, and
8 whether the stock is membership stock;

9 (2) any restrictions on the issuance or transfer of
10 such stock, including those provided in subsection (c); and

11 (3) if more than one class of stock is authorized, the
12 designation of the several classes, their respective
13 preferences, limitations, and relative rights.

14 In lieu of the full statement, this information may be
15 given in summary form or the certificate may state that the
16 cooperative will, upon request, furnish the information
17 required by this subsection.

18 (e) No stock certificate may be issued except upon payment
19 of the par value of the stock it represents. Payment for stock
20 may be in cash or other property. If in other property, the
21 value thereof shall be determined by the board, and the
22 determination, if made in good faith, shall be conclusive.

23 (f) Unless the articles provide otherwise, a cooperative
24 may acquire, recall, exchange, redeem, and reissue its own
25 stock. Provisions in the articles and on the stock certificate
26 may reserve to the cooperative a prior right to acquire any

1 stock offered for sale or a right to recall the stock of any
2 stockholder, or both. The consideration paid for stock recalled
3 by the cooperative shall be its par value and accrued unpaid
4 dividends, provided that if the book value of such stock is
5 less than the par value, the consideration shall be the book
6 value. The cooperative may set off obligations of the
7 stockholder to it. If the remaining assets would be less than
8 the aggregate amount payable to creditors and persons holding
9 stock with preferential rights upon liquidation, no stock shall
10 be acquired, recalled, exchanged, or redeemed for a
11 consideration other than stock or certificates of equity
12 interest of equal or subordinate rank.

13 (g) When stock is acquired, recalled, exchanged, or
14 redeemed by the cooperative, the stock is restored to the
15 status of authorized but unissued stock.

16 (h) Stockholders as such have no preemptive right to
17 purchase additional stock.

18 Section 135. Subscriptions and liability for stock.

19 (a) A subscription for stock of a cooperative is
20 irrevocable for 6 months unless otherwise provided by the
21 subscription agreement or unless all subscribers consent to the
22 revocation.

23 (b) Except as provided in Section 170, a stockholder or
24 subscriber is under no obligation to any person with respect to
25 the stockholder's or subscriber's stock or subscription other

1 than the obligation to pay to the cooperative the full
2 consideration for which the stock was to be issued.

3 Section 140. Missing securities or records.

4 (a) When a security issued by a cooperative is missing, the
5 cooperative shall issue a duplicate security if the owner so
6 requests and furnishes an indemnity acceptable to the
7 cooperative.

8 (b) When records showing ownership of securities of
9 apportionment of equity interest in the assets are missing and
10 the information therein contained is necessary to a proposed
11 redemption of the interest, the cooperative may give notice and
12 redeem as follows:

13 (1) the cooperative shall set aside an amount equal to
14 the value of the interests to be redeemed;

15 (2) the cooperative shall give notice of the redemption
16 to all owners of interests of which the cooperative has
17 knowledge; and

18 (3) if there are interests, the ownership of which is
19 unknown to the cooperative, it shall publish notice of the
20 redemption at least once a month for 4 months in a
21 publication circulated among members of cooperatives in
22 the area.

23 Section 145. Directors; number, election, removal, and
24 vacancies.

1 (a) All powers of the cooperative shall be exercised by or
2 under authority of, and the business and affairs of a
3 cooperative shall be managed under the direction of, the board,
4 except as otherwise provided in this Act. A director shall be a
5 member or a representative of a member who is other than a
6 natural person. The bylaws shall prescribe any other
7 qualifications for directors.

8 (b) The number of directors shall not be less than 5,
9 provided that, in a cooperative with less than 50 members, the
10 number of directors shall not be less than 3. Subject to such
11 limitation, the number shall be fixed in the articles, or if
12 the articles so provide, in the bylaws.

13 (c) The directors constituting the temporary board, named
14 in the articles, shall hold office until the first member
15 meeting. At that meeting and thereafter, directors shall be
16 elected by the members at a member meeting in the manner and
17 for the terms provided in the bylaws. If the bylaws provide
18 that directors be from specified districts, the articles may
19 limit voting for any director to members from within the
20 district from which the director is to be elected. Unless the
21 bylaws provide otherwise, a director's term of office shall be
22 one year. Each director shall hold office for the term for
23 which elected and until a successor takes office. The bylaws
24 may permit selection of alternates to take the place of
25 directors absent at a meeting of the board. Whenever any change
26 is made in the board, the cooperative shall file within 20 days

1 with the Secretary a report showing the names and addresses of
2 all directors.

3 (d) Unless the bylaws provide otherwise, a director may be
4 removed upon a majority vote of all members.

5 (e) Unless the bylaws provide otherwise, any vacancy
6 existing in the board, including any vacancy created by an
7 increase in the number of directors, may be filled until the
8 next annual meeting by appointment by a majority vote of the
9 directors then in office.

10 Section 150. Directors; meetings, quorum, and waiver of
11 notice.

12 (a) Meetings of the board shall be held at such place and
13 upon such notice as is prescribed in or pursuant to the bylaws.

14 (b) Unless a greater number is required in the bylaws, a
15 majority of the directors in office shall constitute a quorum
16 for transaction of business. Unless a greater number is
17 required in the bylaws, an act of the majority of the directors
18 present at a meeting at which a quorum is present shall be the
19 act of the board.

20 (c) A signed waiver of notice of a board meeting is
21 equivalent to personal notice to the person so signing. The
22 waiver may be signed at any time. Attendance at a meeting is a
23 waiver of notice of such meeting, except when a director
24 attends the meeting and objects at the meeting to the
25 transaction of business because the meeting was not lawfully

1 convened.

2 (d) Unless the bylaws provide otherwise, the purposes of
3 any meeting of the board need not be specified in the notice or
4 waiver of notice of the meeting.

5 (e) Unless the articles or bylaws provide otherwise, the
6 board may permit any or all directors to participate in a
7 regular or special meeting or in a committee meeting, including
8 an executive committee meeting, of the board by, or to conduct
9 the meeting through the use of, any means of communication by
10 which any of the following occurs:

11 (1) all participating directors may simultaneously
12 hear each other during the meeting; or

13 (2) all communication during the meeting is
14 immediately transmitted to each participating director,
15 and each participating director is able to immediately send
16 messages to all other participating directors.

17 (f) If a meeting will be conducted through the use of any
18 means described in subsection (e), all participating directors
19 shall be informed that a meeting is taking place at which
20 official business may be transacted. A director participating
21 in a meeting by any means described in subsection (e) is deemed
22 to be present in person at the meeting. If requested by a
23 director, minutes of the meeting shall be prepared and
24 distributed to each director.

25 Section 155. Executive committee.

1 (a) If the bylaws so provide, the board may elect an
2 executive committee to consist of 3 or more directors. When the
3 board is not in session, the committee shall have all powers of
4 the board except in respect to:

- 5 (1) powers reserved by the board to itself;
- 6 (2) apportionment or distribution of proceeds;
- 7 (3) election of officers;
- 8 (4) filling of vacancies in the board; and
- 9 (5) amendments to the bylaws.

10 (b) The board may elect other directors as alternates for
11 members of the executive committee.

12 Section 160. Officers.

13 (a) Unless the articles of incorporation provide
14 otherwise, the principal officers of a cooperative are a
15 president, one or more vice presidents as prescribed in the
16 bylaws, a secretary, and a treasurer. They shall be elected
17 annually by the board at the time and in such manner as the
18 bylaws provide. Upon original election and whenever any change
19 is made in the officers, the cooperative shall file with the
20 Secretary, within 20 days, a report showing the name and
21 address of all officers. Each principal officer except the
22 secretary and the treasurer must be a director of the
23 cooperative. The offices of secretary and treasurer may be
24 combined in one person.

25 (b) Any other officer may be chosen by the board or as

1 provided in the bylaws.

2 (c) All officers shall have such authority and perform such
3 duties as the bylaws provide or as the board may determine not
4 inconsistent with the bylaws. An officer may be removed by the
5 board whenever in its judgment the best interests of the
6 cooperative will be served thereby. Election or appointment
7 does not of itself create contract rights.

8 Section 165. Limited liability of directors and officers.

9 (a) Except as provided in subsections (b) and (c), a
10 director or officer is not liable to the cooperative, its
11 members, stockholders, or creditors, or any person asserting
12 rights on behalf of the cooperative, its members, stockholders,
13 or creditors, or any other person for damages, settlements,
14 fees, fines, penalties, or other monetary liabilities arising
15 from a breach of, or failure to perform, any duty resulting
16 solely from his or her status as a director or officer, unless
17 the person asserting liability proves that the breach or
18 failure to perform constitutes any of the following:

19 (1) A willful failure to deal fairly with the
20 cooperative, its members, or stockholders in connection
21 with a matter in which the director or officer has a
22 material conflict of interest.

23 (2) A violation of criminal law, unless the director or
24 officer had reasonable cause to believe his or her conduct
25 was lawful or no reasonable cause to believe his or her

1 conduct was unlawful.

2 (3) A transaction from which the director or officer
3 derived an improper personal profit.

4 (4) Willful misconduct.

5 (b) Except as provided in subsection (c), this Section does
6 not apply to any of the following:

7 (1) A civil or criminal proceeding brought by or on
8 behalf of any governmental unit, authority, or agency.

9 (2) A proceeding brought by any person for a violation
10 of State or federal law where the proceeding is brought
11 pursuant to an express private right of action created by
12 State or federal statute.

13 (3) The liability of a director under Section 170.

14 Items (1) and (2) of this subsection do not apply to a
15 proceeding brought by a governmental unit, authority, or agency
16 in its capacity as a private party or contractor.

17 Section 170. Liability of directors and members.

18 (a) Directors who negligently or in bad faith vote for any
19 distribution of assets contrary to this Act or the articles are
20 jointly and severally liable to the cooperative for the value
21 of assets distributed in excess of the amount that could have
22 been distributed without violating this Act or the articles.
23 Section 165 does not apply to the liability of directors under
24 this subsection.

25 (b) Members, stockholders, and patrons of a cooperative are

1 neither obligated to pay, nor liable upon, any cooperative
2 obligation, except that stockholders are liable to an amount
3 equal to the par value of their shares for debts due an
4 employee for not more than 6 months' service to the
5 cooperative.

6 Section 175. Cooperative contracts.

7 (a) If otherwise lawful, contracts for any of the following
8 purposes, whether written or contained in the bylaws, are valid
9 when made between an association and any member in which the
10 member agrees to:

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

15 (2) authorize the association or any facilities
16 furnished by it to act for the member in any manner with
17 respect to all or any specified part of such products and
18 any services to be furnished by the member;

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

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

25 (b) The term of the contracts may not exceed 5 years, but

1 they may be made self-renewing for periods not exceeding 5
2 years each, subject to the right of either party to terminate
3 at the end of the original and each renewal term upon giving
4 written notice of such termination during a period specified in
5 the contract. The period shall be of at least 30 days' duration
6 during the last year of each term. The association shall
7 furnish to each member-maker a completed original or copy of
8 the member-maker's contract and, on the member-maker's request
9 at any time, promptly furnish the member-maker information as
10 to the member-maker's rights of termination. The 5-year
11 limitation herein contained does not apply to contracts for the
12 furnishing of electric energy or service involving an
13 investment by the vendor in fixed assets to be amortized over a
14 longer term.

15 (c) A contract may require liquidated damages to be paid by
16 the member in the event of a breach of the contract. Liquidated
17 damages may be either a percentage of the value of the
18 products, goods, or services or a specific sum, but neither may
19 be more than 30% of the value of the products, goods, or
20 services subject to the breach. When a specific sum is provided
21 as liquidated damages and the sum exceeds 30% of the value of
22 the products, goods, or services that are the subject of the
23 breach, the contract shall be construed as providing an amount
24 equal to 30%.

25 (d) If any contract authorized by item (1) or (2) of
26 subsection (a) contains an assignment to the association of any

1 part or all of funds due or to become due the member during the
2 life of the contract for a product produced or to be produced
3 by the member or for a service performed or to be performed in
4 producing a product, a person who accepts or receives the
5 product from the member is bound by the assignment after
6 receiving written notice from the association or the member of
7 the amount and duration of the assignment. However, as to any
8 seasonal crop, if no funds are paid or become payable by a
9 person under such an assignment for a period of 2 consecutive
10 years during the life of the contract, the assignment
11 thereafter shall not be binding upon any person who receives or
12 accepts the product from the member until the assignment is
13 reaffirmed by the member in writing and written notice thereof
14 is given by the association or the member. A reaffirmation
15 shall continue to be effective during the life of the contract
16 until another lapse of 2 consecutive years shall occur.

17 Section 180. Relief against breach or threatened breach.

18 (a) In the event of a breach or threatened breach of a
19 contract authorized by Section 175 by a member, the association
20 shall be entitled to an injunction to prevent the breach or any
21 further breach thereof and to a decree of specific performance.
22 Upon filing of a verified complaint showing a breach or
23 threatened breach and upon filing a sufficient bond, the
24 association shall be entitled to a temporary restraining order
25 against the member.

1 (b) A person, with actual or constructive notice that a
2 contract exists, who induces or attempts to induce any member
3 to breach or repudiate the member's contract with the
4 association or who in any manner aids a breach of the contract
5 is liable to the aggrieved party for damages caused by such
6 interference. The association is also entitled to an injunction
7 to prevent any interference or further interference with the
8 contract.

9 Section 185. Apportionment and distribution of proceeds.

10 (a) At least once annually the directors shall determine
11 and distribute net proceeds as provided in this Section.

12 (b) There shall be deducted from the total proceeds the
13 following:

14 (1) all operating expenses and costs;

15 (2) the cost of supplies, commodities, equipment, and
16 other property or services procured or sold for patrons;

17 (3) the cost of services performed for patrons;

18 (4) all taxes and all other expenses; and

19 (5) reasonable and necessary reserves for
20 depreciation, depletion, and obsolescence of physical
21 property, doubtful accounts, and other valuation reserves,
22 all of which shall be established in accordance with usual
23 and customary accounting practices.

24 (c) The remainder of the total proceeds are net proceeds
25 and shall be distributed and paid as follows:

1 (1) An amount not to exceed 5% thereof may be set aside
2 as an educational fund to be used in teaching or promoting
3 cooperative organization or principles. The funds shall
4 for all purposes except the computation of net proceeds be
5 deemed an expense of operation of the cooperative.

6 (2) A share of the net proceeds may be set aside for or
7 paid to officers or employees, or both. The amount shall
8 for all purposes except the computation of net proceeds be
9 deemed an expense of operation of the cooperative.

10 (3) In a cooperative organized with capital stock such
11 dividend may be paid upon capital stock as is authorized by
12 the articles. No dividend may be paid if the capital is
13 impaired or if payment of the dividend would result in an
14 impairment of capital.

15 (d) Unless the articles or bylaws otherwise expressly
16 provide, none of the remainder of the net proceeds shall
17 constitute income of the cooperative, but all thereof shall be
18 distributed and paid to patrons, whether members or not, as
19 follows:

20 (1) Reasonable reserves for necessary purposes may be
21 created, which shall be credited to patrons in accordance
22 with the ratio which their patronage bears to total
23 patronage.

24 (2) The remainder of the net proceeds shall be
25 distributed and paid to patrons in accordance with the
26 ratio that their patronage bears to total patronage.

1 (3) There shall be no distinction between the persons
2 entitled thereto, but the reserves and distributions may be
3 based upon business done with particular departments or in
4 particular commodities, supplies, or services, or upon
5 classification of business according to the type or nature
6 thereof.

7 (e) If the articles or bylaws so provide:

8 (1) Any of the net proceeds may be credited to
9 allocated or unallocated surplus or reserves of the
10 cooperative.

11 (2) None of the remainder shall constitute income to
12 the cooperative, but all of it shall be distributed and
13 paid in accordance with the ratio that individual patronage
14 bears to total patronage, either to member patrons only, to
15 member patrons only with one or more classes receiving a
16 lower proportion than others, or to all patrons with
17 nonmembers receiving a lower proportion than members, as
18 the bylaws provide. There shall be no other distinction
19 between members and nonmembers, but distribution may be
20 based on business done with particular departments, or in
21 particular commodities, supplies, or services, or upon
22 classification of business according to type or nature.

23 (f) The distribution and payment of net proceeds under
24 subsection (d) or (e) may be in cash, credits, stock,
25 certificates of interest, revolving fund certificates, letters
26 of advice, or other certificates or securities of the

1 cooperative or of other associations, limited liability
2 companies, or corporations, in other property, or in any
3 combination thereof.

4 (g) All or any part of the net proceeds may be applied to
5 losses incurred in prior years, and the bylaws may also include
6 any reasonable provisions for the apportionment of losses.

7 Section 190. Books and records; penalty for refusal to
8 produce.

9 (a) A cooperative shall keep correct and complete books and
10 records of account and shall also keep minutes of the
11 proceedings of meetings of its members, board, and executive
12 committee. The cooperative shall keep at its principal office
13 records of the names and addresses of all members and
14 stockholders with the amount of stock held by each and of
15 ownership of equity interests. At any reasonable time, any
16 member or stockholder, or his or her agent or attorney, upon
17 written notice stating the purposes thereof, delivered or sent
18 to the cooperative at least one week in advance, may examine
19 for a proper purpose any books or records pertinent to the
20 purpose specified in the notice. The board may deny a request
21 to examine books and records if the board determines that the
22 purpose is not directly related to the business or affairs of
23 the cooperative and is contrary to the best interests of the
24 cooperative.

25 (b) In any proceeding or upon petition for such purpose,

1 any court of record may, upon notice and after hearing at which
2 proper cause is shown and upon suitable terms, order any of the
3 cooperative's books or records and any other pertinent
4 documents in its possession, or duly authenticated copies
5 thereof, to be brought within this State. The documents shall
6 be kept at such place and for such time and purposes as the
7 order designates. A cooperative failing to comply with the
8 order is subject to dissolution and its directors and officers
9 are liable for contempt of court.

10 (c) Subject to the time, notice, and purpose requirements
11 of subsection (a), a member or stockholder of a cooperative may
12 examine the books and records of any other cooperative or other
13 person that is a wholly owned subsidiary of the cooperative or
14 in which the cooperative owns a controlling interest.

15 Section 195. Annual reports; filing.

16 (a) A cooperative shall file an annual report signed by a
17 principal officer or the general manager setting forth:

18 (1) its name and complete address;

19 (2) the names and addresses of its directors and
20 principal officers;

21 (3) a statement, by class and par value, of the amount
22 of stock which it has authority to issue, and the amount
23 issued; and

24 (4) a statement as to the general type of business
25 engaged in during the 12 months preceding the date of the

1 report.

2 (b) The annual report shall be made on forms furnished by
3 the Secretary, and the information therein contained shall be
4 given as of the date of the execution of the report. The
5 Secretary shall forward by first class mail report forms to
6 each cooperative in good standing not later than 60 days prior
7 to the date on which the cooperative is required to file an
8 annual report under this Act.

9 (c) The annual report shall be delivered to the Secretary
10 in each year following the year in which the cooperative's
11 articles are filed by the Secretary, during the calendar year
12 quarter in which the anniversary of the filing occurs. If the
13 report does not conform to requirements, it shall be returned
14 to the cooperative for necessary corrections. The penalties for
15 failure to file the report shall not apply if it is corrected
16 and returned within 30 days after receipt thereof.

17 (d) Any report not filed as required by subsection (c) may
18 be filed only upon payment to the Secretary of \$25 or, if the
19 report is filed in paper format, upon payment of such larger
20 fee as the Secretary prescribes by rule.

21 (e) If the report is not filed within one year from the
22 first day of the quarter calendar year in which the report is
23 required under subsection (c) to be delivered, the cooperative
24 is not in good standing. Within the next 6 months the Secretary
25 shall mail to the cooperative a notice that it is no longer in
26 good standing. If a cooperative has been out of good standing

1 for more than 3 consecutive years, the Secretary shall provide
2 proper notice. Until restored to good standing, the Secretary
3 shall not accept for filing any document respecting the
4 cooperative except those incident to its dissolution.

5 (f) A cooperative may be restored to good standing by
6 delivering to the Secretary a current annual report and by
7 paying the \$25 late filing fee plus \$15 for each calendar year
8 or part thereof during which it was not in good standing, not
9 exceeding a total of \$175. The Secretary, by rule, may specify
10 a larger fee for the filing of an annual report in paper
11 format.

12 Section 200. Income or franchise tax returns. A
13 cooperative association, society, company, corporation,
14 exchange, or union organized under the provisions of this Act
15 shall not be obliged to file a State income or franchise tax
16 return unless the association, society, company, corporation,
17 exchange, or union is at the time subject to a State income or
18 franchise tax.

19 Section 205. Amendments to articles.

20 (a) At any member meeting a cooperative may adopt any
21 amendment to its articles that is lawful under Section 80 if a
22 statement of the nature of the amendment was contained in the
23 notice of the meeting.

24 (b) Unless stockholders are entitled by Section 210 to vote

1 on an amendment, an amendment is adopted when approved by
2 two-thirds of the member votes cast thereon.

3 Section 210. Stockholder voting on amendments to articles.

4 (a) Whether or not permitted to vote by the articles, a
5 holder of stock other than membership stock who is affected by
6 a proposed amendment to articles shall be entitled to cast one
7 vote on the amendment regardless of the dollar amount of stock,
8 the number of shares, or the number of affected classes of
9 stock he or she holds. A member holding stock affected by a
10 proposed amendment may vote both as a member and as an affected
11 stockholder.

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

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

18 (2) restrict rights to transfer that class;

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

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

1 (5) increase the number of authorized shares of any
2 class having a higher preference as to dividends or upon
3 dissolution; or

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

8 (c) If stockholders are entitled to vote on an amendment,
9 the amendment is adopted only if all of the following
10 conditions are met:

11 (1) Notice of the meeting, an exact copy of the
12 proposed amendment, and a ballot thereon have been sent to
13 each member and each affected stockholder.

14 (2) Two-thirds of the member votes cast thereon
15 approve.

16 (3) Two-thirds of the votes of affected stockholders
17 cast thereon approve.

18 Section 215. Filing and recording of amendments.

19 (a) Amendments to articles shall be signed by the president
20 or a vice president and the secretary or an assistant
21 secretary, shall be sealed with the cooperative's seal, and
22 shall set forth:

23 (1) the name of the cooperative and the county of the
24 cooperative's principal office or of its registered agent;

25 (2) the amendment and date of adoption;

1 (3) the number of members;

2 (4) the number of member votes cast for and against the
3 amendment; and

4 (5) if affected stockholders have the right to vote
5 under Section 210, the number of votes of affected
6 stockholders cast for and against the amendment.

7 (b) The amendment shall be filed and recorded as provided
8 in Section 235. The amendment becomes effective upon filing and
9 the Secretary may then issue a certificate of amendment.

10 (c) No amendment may affect any existing cause of action or
11 proceeding to which the cooperative is a party or existing
12 rights of persons other than members or stockholders.

13 (d) No action may be maintained to invalidate any amendment
14 because of the manner of its adoption unless commenced within 2
15 years after the date of filing.

16 Section 220. Voluntary dissolution.

17 (a) At any member meeting, whether or not a quorum is
18 present, a cooperative may dissolve if:

19 (1) notice that a resolution for dissolution will be
20 considered and acted upon has been included in the notice
21 of meeting; and

22 (2) the resolution is approved by three-fourths of the
23 member votes cast thereon.

24 The articles may permit stockholders to vote on the
25 resolution for dissolution.

1 (b) When the resolution is adopted, either a committee
2 designated by the resolution or the board shall liquidate all
3 assets and pay the net proceeds of the liquidation available
4 for distribution to all persons entitled to them by law, the
5 articles, and the bylaws.

6 (c) Any net proceeds of liquidation not subject to valid
7 claims or owed to persons under subsection (b) shall be
8 distributed to one or more organizations that are either:

9 (1) cooperatives with articles containing limitations
10 on distribution of assets or payment of proceeds of
11 liquidation equivalent to limitations in the articles of
12 the liquidating cooperative; or

13 (2) organizations exempt from federal income taxation
14 under 26 U.S.C. 501(c) (3).

15 (d) Articles of dissolution shall be signed by a majority
16 of directors or of committee members and shall be sealed with
17 the cooperative's seal. They shall set forth:

18 (1) the name of the cooperative and the county of the
19 cooperative's principal office or of its registered agent;

20 (2) the name and address of each director or committee
21 member;

22 (3) the date of adoption of the resolution of
23 dissolution; and

24 (4) a statement that all liquidation activities have
25 been completed in compliance with law, the articles, and
26 the bylaws.

1 (e) The articles of dissolution shall be filed and recorded
2 as provided in Section 235. Upon the filing of the articles the
3 existence of the cooperative ceases.

4 (f) Within 7 years after the date of filing under
5 subsection (e), an action may be brought against any person to
6 whom proceeds were distributed under subsection (b) in
7 violation of law, the articles, or the bylaws to recover the
8 proceeds by any person entitled to the funds by law, the
9 articles, or the bylaws in the circuit court of the county
10 where the last principal office of the cooperative was located.

11 Section 225. Recording change of principal office or
12 registered agent.

13 (a) If a document submitted to the Secretary for filing
14 under this Act changes the county of the principal office or of
15 the registered agent:

16 (1) an original of the document or a duplicate original
17 endorsed by the Secretary shall be recorded in each county;

18 (2) the document shall specify the new county when:

19 (A) the county of the principal office or
20 registered agent is changed; or

21 (B) the document makes a change from a principal
22 office in one county to a registered agent's address in
23 another county or vice versa.

24 (b) A certificate of the Secretary listing the type and
25 date of filing of recordable documents previously filed by the

1 cooperative shall be recorded in the county of the new
2 principal office or of the registered agent.

3 Section 230. Procedure on filing and recording of
4 documents.

5 (a) If a document is required to be filed and recorded
6 under this Act, all of the following shall be included when the
7 document is submitted for filing:

8 (1) Separate originals of the document for the
9 Secretary and for the recorder of deeds of each county in
10 which the document is required to be recorded.

11 (2) A check payable to the Secretary in the amount of
12 the filing fee prescribed under Section 235.

13 (b) Unless the document does not conform to law, the
14 Secretary shall endorse on each original "Filed" and the date
15 of filing and shall file one original. A recorder of deeds
16 receiving a check and document forwarded shall record the
17 document. If the document is not articles, the recorder of
18 deeds shall note on the margin of the record of the articles
19 the volume and page where the document is recorded.

20 (c) Each week the Secretary shall forward to each recorder
21 of deeds a listing of all documents received during the
22 preceding week for filing and recording as required under this
23 Act. For each document, the listing shall specify the type of
24 document, the name of the cooperative, the name of the county
25 of the cooperative's principal office or registered agent, and

1 the date of filing.

2 (d) A document required to be filed and recorded under this
3 Act is effective on filing with the Secretary. An error or
4 omission in recording the document or a certificate with a
5 recorder of deeds does not affect its effectiveness.

6 Section 235. Fees for filing.

7 (a) Except as provided under subsection (b), the Secretary
8 shall charge and collect for:

9 (1) Filing articles for a new cooperative, \$1.25 for
10 each \$1,000 of authorized stock, but in no case less than
11 \$25. A cooperative organized without capital stock shall
12 pay a fee of \$25.

13 (2) Filing an amendment to or restatement of the
14 articles or articles of consolidation or division, \$10,
15 plus \$1.25 for each \$1,000 of authorized stock not
16 authorized at the time of the amendment, restatement,
17 consolidation, or division, except that no fee may be
18 collected for any of the following:

19 (A) an amendment showing only a change of address
20 resulting from the action of a governmental agency if
21 there is no corresponding change in physical location
22 and if 2 copies of the notice of the action are
23 submitted to the Secretary; or

24 (B) an amendment filed to reflect only a change in
25 the name of a registered agent.

- 1 (3) Filing articles or decree of dissolution, \$5.
- 2 (4) Filing an annual report of a cooperative, \$15.
- 3 (5) Filing a report of names and addresses of officers
4 or directors, \$3.
- 5 (b) The Secretary, by rule, may specify a larger fee for
6 filing documents described in subsection (c) in paper format.
- 7 (c) No document may be filed or recorded until all fees
8 therefor have been paid.

9 Section 240. Member or stockholder derivative actions.

10 (a) No action may be instituted or maintained in the right
11 of any association by a member or stockholder unless the member
12 or stockholder:

13 (1) alleges in the complaint that the member or
14 stockholder was a member or registered stockholder when any
15 part of the transaction of which the member or stockholder
16 complains took place or that the member's or stockholder's
17 stock thereafter devolved upon the member or stockholder by
18 operation of law from a stockholder at such time;

19 (2) alleges in the complaint with particularity his or
20 her efforts to secure from the board the action he or she
21 desires and further alleges that he or she has either
22 informed the association or board in writing of the
23 ultimate facts of each cause of action against each
24 director or that he or she has delivered to the association
25 or board a copy of the complaint no fewer than 60 days

1 prior to filing the complaint; and

2 (3) files the complaint in such action within 20 days
3 after the action is commenced.

4 (b) The action shall not be dismissed or compromised
5 without the approval of the court.

6 (c) If anything is recovered or obtained as the result of
7 the action, whether by means of a compromise and settlement or
8 by a judgment, the court may, out of the proceeds of the
9 action, award the plaintiff the reasonable expenses of
10 maintaining the action, including reasonable attorney fees,
11 and may direct the plaintiff to account to the association for
12 the remainder of such proceeds.

13 (d) In any action brought in the right of an association by
14 less than 3% of the members or by holders of less than 3% of any
15 class of stock outstanding, the defendants may require the
16 plaintiff to give security for the reasonable expenses of
17 defending such action, including attorney fees. The amount of
18 such security may thereafter be increased or decreased in the
19 discretion of the court upon showing that the security provided
20 is or may be inadequate or is excessive.

21 Section 245. Disposition of assets; right to secure debts.

22 (a) Except as authorized by members, the board may not
23 dispose of all or substantially all of a cooperative's fixed
24 assets. At a meeting, the members may authorize the disposition
25 of all or substantially all of a cooperative's fixed assets if:

1 (1) notice that the disposition will be considered at
2 the meeting has been given to all persons entitled to vote
3 upon the issue; and

4 (2) the disposition is approved by two-thirds of those
5 entitled to vote upon the issue at the meeting.

6 (b) Unless the bylaws provide otherwise, the board may
7 secure payment of a cooperative's debts by mortgaging the
8 cooperative's rights, privileges, authority and franchises,
9 revenues, and other property.

10 Section 250. Division of a cooperative.

11 (a) Any cooperative may divide itself into 2 or more
12 cooperatives under this Act. A written plan of division shall
13 be prepared by the board or by a committee selected by the
14 board for that purpose. The plan shall set forth all the terms
15 of the division and the proposed effect thereof on all members
16 and stockholders of the cooperative. The plan shall also
17 contain the articles of each new cooperative being formed and
18 any amendments to the articles of the remaining cooperative.

19 (b) The members and the stockholders entitled to vote
20 thereon shall approve the plan in the manner provided in
21 Section 210 for amendments to articles.

22 (c) Articles of division shall set forth the approved plan
23 and other information required by Section 215 and shall be
24 filed and recorded as an amendment to the articles. Each part
25 of the plan that contains the articles of a new cooperative

1 shall be separately filed and recorded as articles for the new
2 cooperative.

3 Section 255. Admission of foreign cooperatives. A foreign
4 cooperative is entitled to all rights, exemptions, and
5 privileges of a cooperative organized under this Act if it is
6 authorized to do business in this State. A foreign cooperative
7 may qualify for admission under this Act whether or not formed
8 for profit and whether or not formed with stock. A foreign
9 cooperative may be required to furnish the Secretary with such
10 facts as the Secretary deems necessary to establish the foreign
11 cooperative's rights under this Act.

12 Section 260. Worker cooperative.

13 (a) As used in this Section:

14 "Patronage" means the amount of work performed as a member
15 of a worker cooperative.

16 "Worker cooperative" means a cooperative organized under
17 the provisions of this Act and in which membership is
18 restricted to individuals who work at the cooperative.

19 (b) All members of a worker cooperative must work for the
20 cooperative on a regular full-time or part-time basis.

21 (c) A worker cooperative shall issue a class of voting
22 stock designated as membership shares. The shares shall be
23 issued only to a person eligible to become a member and only
24 when the person satisfies other requisites for membership. A

1 member may own only one membership share. Membership shares
2 shall be issued for a fee according to the rules set forth in
3 the bylaws or as determined by the board. A worker cooperative
4 may allow for payment of the fee by payroll deduction,
5 installments, or similar methods. A membership share may be
6 issued to a person upon acceptance for membership regardless of
7 whether the membership fee is fully paid.

8 (d) A worker cooperative may establish through its articles
9 or bylaws a system of allocated equity accounts to reflect the
10 book value and redemption price of membership shares, written
11 notices of allocation, and any other credit reflected in the
12 bylaws. The articles or bylaws may provide for the worker
13 cooperative to pay or credit interest on the balance in each
14 member's allocated equity account.

15 A worker cooperative may establish through its articles or
16 bylaws a collective reserve account to reflect retained
17 earnings and other cooperative equity. The articles or bylaws
18 may authorize the board to assign of a portion of annual
19 earnings to the collective reserve account. Earnings assigned
20 to the collective account may be used for any and all corporate
21 purposes as determined by the board.

22 A worker cooperative may designate a portion of its
23 collective reserve account as an indivisible reserve account
24 that shall, in a manner determined by the bylaws or board, be
25 used as capital for the cooperative or distributed to one or
26 more organizations that are either:

- 1 (1) worker cooperatives incorporated under this Act;
2 or
3 (2) organizations exempt from federal income taxation
4 under 26 U.S.C. 501(c)(3) and in support of the worker
5 cooperative movement.

6 Section 265. Residential cooperatives exempted. This Act
7 does not apply to residential cooperatives.

8 (805 ILCS 310/Act rep.)

9 Section 900. The Co-operative Act is repealed.