

AN ACT concerning business.

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

Section 1. Short title. This Act may be cited as the Limited Worker Cooperative Association Act.

Section 5. Findings. The General Assembly finds and declares all of the following:

(1) the cooperative form of doing business provides an efficient and effective method for persons to transact business, offer, and obtain goods and services, and it is in the best interests of the people of the State of Illinois to promote, foster, and encourage the utilization of cooperatives in appropriate instances;

(2) the Co-operative Act and Agricultural Co-Operative Act have provided for the promotion, fostering, and encouragement of consumer and producer cooperatives; have made distribution of agricultural products between producer and consumer more efficient; have stabilized the marketing of agricultural products; and have provided for the organization and incorporation of cooperative corporations, all as contemplated at the time of the original adoption;

(3) it is in the best interests of the people of the

State of Illinois to preserve the provisions of the Co-operative Act as it has been in force and interpreted in the State and to continue the provisions thereof for agriculture, but also to expand the provisions of Illinois cooperative law to provide greater direction and flexibility in its provisions and to enable all types of industries and enterprises to avail themselves of the benefits of the cooperative form of doing business in accordance with the provisions of this Act;

(4) a worker cooperative has the purpose of creating and maintaining sustainable jobs and generating wealth in order to improve the quality of life of its worker-members, dignify human work, allow workers' democratic self-management, and promote community and local development in this State;

(5) the purpose of this Act is to create a new business entity better suited for worker cooperatives and multi-stakeholder cooperatives, and to create more visibility and financing options for cooperatives. This Act is intended to provide a definition of worker cooperative for purposes of this Act, and not for purposes of other laws.

Section 10. Definitions. In this Act:

"Candidate" means a worker who is being considered for membership in a worker cooperative, as defined in the

cooperative association's articles or bylaws.

"Collective worker cooperative" means a limited cooperative association that only has one class of members consisting of worker-members who manage all of the affairs of the limited cooperative association.

"Community investor" means a person who is not a member and who holds a share or other proprietary interest in a limited cooperative association.

"Distribution" means a transfer of money or other property from a limited cooperative association to a member because of the member's financial rights or to a transferee of a member's financial rights.

"Member" means any person who, pursuant to a specific provision of a limited cooperative association's articles or bylaws, has the right to vote for the election of a director or directors, or possesses proprietary interests in the limited cooperative association.

"Multi-stakeholder cooperative" means a cooperative organized under this Act that has different classes of members whose rights and proprietary interests shall be determined by the articles or bylaws. At least 51% of the members shall be worker-members or candidates. A multi-stakeholder cooperative is a worker cooperative for purposes of this Act.

"Worker cooperative" means a limited cooperative association formed under this Act that includes a class of worker-members who are natural persons whose patronage

consists of labor contributed to or other work performed for the limited cooperative association. Election to be organized as a worker cooperative does not create a presumption that workers are employees of the corporation for any purposes. A worker cooperative formed under this Act may include additional classes of members whose rights and proprietary interests shall be determined by the articles or bylaws. At least 51% of the workers shall be worker-members or candidates.

"Worker" means a natural person contributing labor or services to a worker cooperative.

"Worker-member" means a member of a worker cooperative who is a natural person and also a patron of a worker cooperative.

Section 15. Purpose of limited cooperative association.

(a) A limited cooperative association is an entity distinct from its members.

(b) A limited cooperative association may be organized for any lawful purpose, whether or not for profit.

(c) An association organized under this Act elects to be a worker cooperative with the State of Illinois. Election to be organized as a worker cooperative does not create a presumption that workers are employees of the corporation for any purposes.

Section 20. Formation of limited cooperative association.

(a) A limited cooperative association must be organized by one or more organizers. Organizers need not be members or

worker-members of the worker cooperative.

(b) To form a limited cooperative association, one or more organizers of the association shall deliver or cause to be delivered articles to the Secretary of State for filing.

Section 25. Articles of organization.

(a) The articles of organization of a limited cooperative association shall state:

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

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

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

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

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

(6) any other provision, not inconsistent with law, that the worker-members, members, or organizers elect to set out in the articles for the regulation of the internal affairs of the worker cooperative, including any provisions that, under this Act, are required or permitted to be set out in the bylaws of the worker cooperative.

Section 30. Organization of limited cooperative

association.

(a) After a limited cooperative association is formed:

(1) if initial directors are named in the articles, the initial directors shall hold an organizational meeting to adopt initial bylaws and carry on any other business necessary or proper to complete the organization of the association; or

(2) if initial directors are not named in the articles, the organizers shall designate the initial directors and call a meeting of the initial directors to adopt initial bylaws and carry on any other business necessary or proper to complete the organization of the association.

(b) Unless the articles otherwise provide, the initial directors may cause the limited cooperative association to accept members, including those necessary for the association to begin business.

(c) Initial directors need not be members.

(d) An initial director serves until a successor is elected and qualified at a members' meeting or the director is removed, resigns, is adjudged incompetent, or dies.

Section 35. Bylaws.

(a) Bylaws shall include:

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

(2) the classes or other types of members' interests

and relative rights, preferences, and restrictions granted to or imposed upon each class or other type of member's interest, including:

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

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

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

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

(5) a statement concerning:

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

(B) the manner in which profits and losses are allocated and distributions are made with respect to

those persons; and

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

(7) a statement addressing members' contributions.

(b) Bylaws may contain any other provision for managing and regulating the affairs of the association.

Section 40. Members.

(a) To begin business, a limited cooperative association must have at least 3 members unless the sole member is a cooperative.

(b) A person becomes a member:

(1) as provided in the articles or bylaws;

(2) as the result of a merger or conversion under Section 65; or

(3) with the consent of all the members.

(c) A member, solely by reason of being a member, may not act for or bind the limited cooperative association.

(d) Unless the articles provide otherwise, a debt, obligation, or other liability of a limited cooperative association is solely that of the association and is not the debt, obligation, or liability of a member solely by reason of being a member.

(e) The total voting membership body shall constitute the assembly of the limited cooperative association.

(f) The assembly shall meet annually at a time provided in the articles or bylaws or set by the board of directors not inconsistent with the articles and bylaws.

(g) Failure to hold an annual assembly meeting does not affect the validity of any action by the limited cooperative association.

(h) A limited cooperative association shall notify each member of the time, date, and place of a members' meeting at least 10 and not more than 60 days before the meeting; except that, if the notice is of a meeting of the members in one or more districts or classes of members, the notice shall be given only to members in those districts or classes.

Section 45. Voting.

(a) The articles or bylaws may allocate voting power among members on the basis of one or a combination of the following:

(1) one member, one vote;

(2) if a member is a cooperative, the number of its members; or

(3) on the basis of use or patronage unless the cooperative has elected to be a worker cooperative.

(b) If the articles or bylaws allocate voting power on the basis of use or patronage and a member would be denied a vote because the member did not use the limited cooperative association or conduct patronage with it during the period on which the allocation of voting power is determined, the

articles or bylaws must provide that the member shall nevertheless be allocated a vote equal to at least the minimum voting power allocated to members who used the association or conducted patronage with it during the period.

(c) The articles or bylaws may provide for the allocation of member voting power by districts or class or any combination thereof.

(d) Community investors are not entitled to vote unless the articles or bylaws provide otherwise.

(e) At no time shall the members have less than a majority of the voting power of the limited cooperative association.

Section 50. Board of directors.

(a) A limited cooperative association must have a board of directors of at least 3 individuals, unless the limited cooperative association is a collective worker cooperative. Subsections (b) through (e) do not apply to collective worker cooperatives.

(b) The affairs of a limited cooperative association must be managed by, or under the direction of, the board of directors unless the board delegates those duties to the assembly of the limited cooperative association. The board may adopt policies and procedures that do not conflict with the articles, bylaws, or this Act.

(c) An individual is not an agent for a limited cooperative association solely by being a director.

(d) A debt, obligation, or other liability of a limited cooperative association is solely that of the association and is not a debt, obligation, or liability of a director solely by reason of being a director. An individual is not personally liable, directly or indirectly, for an obligation of an association solely by reason of being a director.

(e) Directors shall be elected for terms determined by the bylaws by a majority vote of the assembly.

Section 55. Assembly.

(a) A limited cooperative association must have an assembly as constituted by the body of voting members.

(b) An individual is not an agent for a limited cooperative association solely by being a member of the assembly.

(c) A debt, obligation, or other liability of a limited cooperative association is solely that of the association and is not a debt, obligation, or liability of a member of the assembly solely by reason of being a voting member. An individual is not personally liable, directly or indirectly, for an obligation of an association solely by reason of being a voting member.

Section 60. Dissolution. A limited cooperative association may be dissolved only by either (1) a two-thirds vote of the assembly, or (2) a vote of the assembly of a supermajority threshold stated in the bylaws that is more than two-thirds.

The vote shall be in accordance with Section 55, and upon dissolution its business and activities must be wound up in the manner provided under the Limited Liability Company Act for a limited liability company.

Section 65. Conversion. A limited cooperative association may convert into any form of entity permitted if the board of directors of the limited cooperative association adopts a plan of conversion and the assembly adopts such a plan by a two-thirds majority vote.

Section 70. Exemption from securities laws. Any security, patronage refund, per unit retain certificate, or evidence of membership issued or sold by a cooperative association as an investment in its capital to the members of a cooperative association formed under this Act or a similar law of any other state and authorized to transact business or conduct activities in this State is exempt from the registration requirements of the Illinois Securities Law of 1953. Such securities, patronage refunds, per unit retain certificates, or evidence of membership may be sold lawfully by the issuer or its members or salaried employees without the necessity of being registered as a broker or dealer under the Illinois Securities Law of 1953.

Section 90. The Co-operative Act is amended by changing Section 22 as follows:

(805 ILCS 310/22) (from Ch. 32, par. 326)

Sec. 22. No corporation or association hereafter organized or doing business for profit in this State shall be entitled to use the term "Co-operative" as a part of its corporate or other business name or title unless it has complied with the provisions of this Act, except (1) a corporation organized under the Business Corporation Act of 1983 for the purpose of ownership or administration of residential property on a cooperative basis, ~~or~~ (2) a cooperative corporation organized under the General Not For Profit Corporation Act of 1986 or its predecessor or successor statutes, or (3) a limited worker cooperative association organized under the Limited Worker Cooperative Association Act. Any corporation or association violating the provision of this Section may be enjoined from doing business under such name at the instance of any shareholder of any association or corporation organized under this Act.

(Source: P.A. 95-368, eff. 8-23-07.)

Section 95. The Illinois Securities Law of 1953 is amended by changing Section 3 as follows:

(815 ILCS 5/3) (from Ch. 121 1/2, par. 137.3)

Sec. 3. The provisions of Sections 2a, 5, 6 and 7 of this Act shall not apply to any of the following securities:

A. Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporation or other instrumentality of any one or more of the foregoing, or any certificate of deposit for any such security.

B. Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporation or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States then maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor.

C. (1) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank or savings bank, bank holding company, or credit union organized under the laws of the United States, or any bank, savings bank, savings institution or trust company organized and supervised under the laws of any state, or any interest or participation in any common trust fund or similar fund maintained by any such bank, savings bank, savings institution or trust company exclusively for the collective investment and reinvestment of assets contributed thereto by such bank, savings bank, savings institution or trust company or any affiliate thereof, in its capacity as fiduciary, trustee, executor, administrator or guardian.

(2) Any security issued or guaranteed to both principal and

interest by an international bank of which the United States is a member.

D. (1) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any savings and loan association or building and loan association organized and supervised under the laws of any state.

(2) Any security issued or guaranteed by any federal credit union or any credit union, industrial loan association, or similar organization organized and supervised under the laws of any state.

E. Any security issued or guaranteed by any railroad, other common carrier, public utility or holding company where such issuer or guarantor is subject to the jurisdiction of the Interstate Commerce Commission or successor entity, or is a registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that Act, or is regulated in respect of its rates and charges by a governmental authority of the United States or any state, or is regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province.

F. Equipment trust certificates in respect of equipment leased or conditionally sold to a person, if securities issued by such person would be exempt under subsection E of this Section.

G. Any security which at the time of sale is listed or approved for listing upon notice of issuance on the New York Stock Exchange, Inc., the American Stock Exchange, Inc., the Pacific Stock Exchange, Inc., the Chicago Stock Exchange, Inc., the Chicago Board of Trade, the Philadelphia Stock Exchange, Inc., the Chicago Board Options Exchange, Incorporated, the National Market System of the Nasdaq Stock Market, or any other exchange, automated quotation system or board of trade which the Secretary of State, by rule or regulation, deems to have substantially equivalent standards for listing or designation as required by any such exchange, automated quotation system or board of trade; and securities senior or of substantially equal rank, both as to dividends or interest and upon liquidation, to securities so listed or designated; and warrants and rights to purchase any of the foregoing; provided, however, that this subsection G shall not apply to investment fund shares or securities of like character, which are being continually offered at a price or prices determined in accordance with a prescribed formula.

The Secretary of State may, after notice and opportunity for hearing, revoke the exemption afforded by this subparagraph with respect to any securities by issuing an order if the Secretary of State finds that the further sale of the securities in this State would work or tend to work a fraud on purchasers of the securities.

H. Any security issued by a person organized and operated

not for pecuniary profit and exclusively for religious, educational, benevolent, fraternal, agricultural, charitable, athletic, professional, trade, social or reformatory purposes, or as a chamber of commerce or local industrial development corporation, or for more than one of said purposes and no part of the net earnings of which inures to the benefit of any private stockholder or member.

I. Instruments evidencing indebtedness under an agreement for the acquisition of property under contract of conditional sale.

J. A note secured by a first mortgage upon tangible personal or real property when such mortgage is made, assigned, sold, transferred and delivered with such note or other written obligation secured by such mortgage, either to or for the benefit of the purchaser or lender; or bonds or notes not more than 10 in number secured by a first mortgage upon the title in fee simple to real property if the aggregate principal amount secured by such mortgage does not exceed \$500,000 and also does not exceed 75% of the fair market value of such real property.

K. A note or notes not more than 10 in number secured by a junior mortgage lien if the aggregate principal amount of the indebtedness represented thereby does not exceed 50% of the amount of the then outstanding prior lien indebtedness and provided that the total amount of the indebtedness (including the indebtedness represented by the subject junior mortgage note or notes) shall not exceed 90% of the fair market value of

the property securing such indebtedness; and provided further that each such note or notes shall bear across the face thereof the following legend in letters at least as large as 12 point type: "THIS NOTE IS SECURED BY A JUNIOR MORTGAGE".

L. Any negotiable promissory note or draft, bill of exchange or bankers' acceptance which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within 9 months of the date of issuance exclusive of days of grace, or any renewal of such note, draft, bill or acceptance which is likewise limited, or any guarantee of such note, draft, bill or acceptance or of any such renewal, provided that the note, draft, bill, or acceptance is a negotiable security eligible for discounting by banks that are members of the Federal Reserve System. Any instrument exempted under this subsection from the requirement of Sections 5, 6, and 7 of this Act shall bear across the face thereof the following legend in letters at least as large as 12 point type: "THIS INSTRUMENT IS NEITHER GUARANTEED, NOR IS THE ISSUANCE THEREOF REGULATED BY ANY AGENCY OR DEPARTMENT OF THE STATE OF ILLINOIS OR THE UNITED STATES.". However, the foregoing legend shall not be required with respect to any such instrument:

(i) sold to a person described in subsection C or H of Section 4 of this Act;

(ii) sold to a "Qualified Institutional Buyer" as that term is defined in Rule 144a adopted under the Securities

Act of 1933;

(iii) where the minimum initial subscription for the purchase of such instrument is \$100,000 or more; or

(iv) issued by an issuer that has any class of securities registered under Section 12 of the Securities Exchange Act of 1934 or has any outstanding class of indebtedness rated in one of the 3 highest categories by a rating agency designated by the Department;

M. Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of any state.

N. Any security issued pursuant to (i) a written compensatory benefit plan (including without limitation, any purchase, savings, option, bonus, stock appreciation, profit sharing, thrift, incentive, pension, or similar plan) and interests in such plans established by one or more of the issuers thereof or its parents or majority-owned subsidiaries for the participation of their employees, directors, general partners, trustees (where the issuer is a business trust), officers, or consultants or advisers of such issuers or its parents or majority-owned subsidiaries, provided that bona fide services are rendered by consultants or advisers and those services are not in connection with the offer and sale of securities in a capital-raising transaction or (ii) a written contract relating to the compensation of any such person.

O. Any option, put, call, spread or straddle issued by a

clearing agency registered as such under the Federal 1934 Act, if the security, currency, commodity, or other interest underlying the option, put, call, spread or straddle is not required to be registered under Section 5.

P. Any security which meets all of the following conditions:

(1) If the issuer is not organized under the laws of the United States or a state, it has appointed a duly authorized agent in the United States for service of process and has set forth the name and address of the agent in its prospectus.

(2) A class of the issuer's securities is required to be and is registered under Section 12 of the Federal 1934 Act, and has been so registered for the three years immediately preceding the offering date.

(3) Neither the issuer nor a significant subsidiary has had a material default during the last seven years, or for the period of the issuer's existence if less than seven years, in the payment of (i) principal, interest, dividend, or sinking fund installment on preferred stock or indebtedness for borrowed money, or (ii) rentals under leases with terms of three years or more.

(4) The issuer has had consolidated net income, before extraordinary items and the cumulative effect of accounting changes, of at least \$1,000,000 in four of its last five fiscal years including its last fiscal year; and

if the offering is of interest bearing securities, has had for its last fiscal year, net income, before deduction for income taxes and depreciation, of at least 1-1/2 times the issuer's annual interest expense, giving effect to the proposed offering and the intended use of the proceeds. For the purposes of this clause "last fiscal year" means the most recent year for which audited financial statements are available, provided that such statements cover a fiscal period ended not more than 15 months from the commencement of the offering.

(5) If the offering is of stock or shares other than preferred stock or shares, the securities have voting rights and the rights include (i) the right to have at least as many votes per share, and (ii) the right to vote on at least as many general corporate decisions, as each of the issuer's outstanding classes of stock or shares, except as otherwise required by law.

(6) If the offering is of stock or shares, other than preferred stock or shares, the securities are owned beneficially or of record, on any date within six months prior to the commencement of the offering, by at least 1,200 persons, and on that date there are at least 750,000 such shares outstanding with an aggregate market value, based on the average bid price for that day, of at least \$3,750,000. In connection with the determination of the number of persons who are beneficial owners of the stock or

shares of an issuer, the issuer or dealer may rely in good faith for the purposes of this clause upon written information furnished by the record owners.

(7) The issuer meets the conditions specified in paragraphs (2), (3) and (4) of this subsection P if either the issuer or the issuer and the issuer's predecessor, taken together, meet such conditions and if: (a) the succession was primarily for the purpose of changing the state of incorporation of the predecessor or forming a holding company and the assets and liabilities of the successor at the time of the succession were substantially the same as those of the predecessor; or (b) all predecessors met such conditions at the time of succession and the issuer has continued to do so since the succession.

Q. Any security appearing on the List of OTC Margin Stocks published by the Board of Governors of the Federal Reserve System or any security incorporated by reference to the List of OTC Margin Stocks by the Board of Governors of the Federal Reserve System; any other securities of the same issuer which are of senior or substantially equal rank; any securities called for by subscription rights or warrants so listed or approved; or any warrants or rights to purchase or subscribe to any of the foregoing.

R. Any security issued by a bona fide limited worker cooperative association or by a bona fide agricultural cooperative operating in this State that is organized under the

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laws of this State or as a foreign cooperative association organized under the law of another state that has been duly qualified to transact business in this State.

(Source: P.A. 90-70, eff. 7-8-97; 91-809, eff. 1-1-01.)

Section 99. Effective date. This Act takes effect January 1, 2020.