

H.109

An act relating to the Uniform Limited Cooperative Association Act

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. Title 11C is added to read:

TITLE 11C. UNIFORM LIMITED COOPERATIVE ASSOCIATIONS

Article 1. General Provisions

§ 101. SHORT TITLE

This title may be cited as the Uniform Limited Cooperative Association Act.

§ 102. DEFINITIONS

For purposes of this title the following words have the following meanings:

(1) "Articles of organization" means the articles of organization of a limited cooperative association required by section 302 of this title. The term includes the articles as amended or restated.

(2) "Board of directors" means the board of directors of a limited cooperative association.

(3) "Bylaws" means the bylaws of a limited cooperative association. The term includes the bylaws as amended or restated.

(4) "Certificate of authority" means a certificate issued by the secretary of state for a foreign cooperative to transact business in this state.

(5) “Contribution,” except as used in subsection 1008(c) of this title, means a benefit that a person provides to a limited cooperative association to become or remain a member or in the person’s capacity as a member.

(6) “Cooperative” means a limited cooperative association or an entity organized under any cooperative law of any jurisdiction.

(7) “Designated office” means the office that a limited cooperative association or a foreign cooperative is required to designate and maintain under subdivision 117(a)(1) of this title.

(8) “Director” means a director of a limited cooperative association.

(9) “Distribution,” except as used in subsection 1007(e) of this title, 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.

(10) “Entity” means a person other than an individual.

(11) “Financial rights” means the right to participate in allocations and distributions as provided in Articles 10 and 12 of this title but does not include rights or obligations under a marketing contract governed by Article 7 of this title.

(12) “Foreign cooperative” means an entity organized in a jurisdiction other than this state under a law similar to this title.

(13) “Governance rights” means the right to participate in governance of a limited cooperative association.

(14) “Investor member” means a member that has made a contribution to a limited cooperative association and:

(A) is not required by the organic rules to conduct patronage with the association in the member’s capacity as an investor member in order to receive the member’s interest; or

(B) is not permitted by the organic rules to conduct patronage with the association in the member’s capacity as an investor member in order to receive the member’s interest.

(15) “Limited cooperative association” means an association organized under this title.

(16) “Member” means a person that is admitted as a patron member or investor member, or both, in a limited cooperative association. The term does not include a person that has dissociated as a member.

(17) “Member’s interest” means the interest of a patron member or investor member under section 601 of this title.

(18) “Members meeting” means an annual members meeting or special meeting of members.

(19) “Organic law” means the statute providing for the creation of an entity or principally governing its internal affairs.

(20) “Organic rules” means the articles of organization and bylaws of a limited cooperative association.

(21) “Organizer” means an individual who signs the initial articles of organization.

(22) “Patron member” means a member that has made a contribution to a limited cooperative association and:

(A) is required by the organic rules to conduct patronage with the association in the member’s capacity as a patron member in order to receive the member’s interest; or

(B) is permitted by the organic rules to conduct patronage with the association in the member’s capacity as a patron member in order to receive the member’s interest.

(23) “Patronage” means business transactions between a limited cooperative association and a person which entitle the person to receive financial rights based on the value or quantity of business done between the association and the person.

(24) “Person” means an individual, corporation, business trust, cooperative, estate, trust, partnership, limited partnership, limited liability company, limited cooperative association, joint venture, association, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(25) “Principal office” means the principal executive office of a limited cooperative association or foreign cooperative, whether or not in this state.

(26) “Record,” used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(27) “Required information” means the information a limited cooperative association is required to maintain under section 114 of this title.

(28) “Sign” means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(29) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(30) “Transfer” includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, and transfer by operation of law.

(31) “Voting group” means any combination of one or more voting members in one or more districts or classes that under the organic rules or this title are entitled to vote and can be counted together collectively on a matter at a members meeting.

(32) “Voting member” means a member that, under the organic law or organic rules, has a right to vote on matters subject to vote by members under the organic law or organic rules.

(33) “Voting power” means the total current power of members to vote on a particular matter for which a vote may or is to be taken.

§ 103. LIMITED COOPERATIVE ASSOCIATION SUBJECT TO  
AMENDMENT OR REPEAL

A limited cooperative association governed by this title is subject to any amendment or repeal.

§ 104. NATURE OF LIMITED COOPERATIVE ASSOCIATION

(a) A limited cooperative association organized under this title is an autonomous, unincorporated association of persons united to meet their mutual interests through a jointly owned enterprise primarily controlled by those persons, which permits combining:

(1) ownership, financing, and receipt of benefits by the members for whose interests the association is formed; and

(2) separate investments in the association by members who may receive returns on their investments and a share of control.

(b) The fact that a limited cooperative association does not have one or more of the characteristics described in subsection (a) of this section does not

alone prevent the association from being formed under and governed by this title nor does it alone provide a basis for an action against the association.

§ 105. PURPOSE AND DURATION 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) Unless the articles of organization state a term for a limited cooperative association's existence, the association has perpetual duration.

§ 106. POWERS

A limited cooperative association may sue and be sued in its own name and do all things necessary or convenient to carry on its activities. An association may maintain an action against a member for harm caused to the association by the member's violation of a duty to the association or of the organic law or organic rules.

§ 107. GOVERNING LAW

The law of this state governs:

(1) the internal affairs of a limited cooperative association; and

(2) the liability of a member as member and a director as director for the debts, obligations, or other liabilities of a limited cooperative association.

§ 108. SUPPLEMENTAL PRINCIPLES OF LAW

Unless displaced by particular provisions, the principles of law and equity supplement this title.

§ 109. REQUIREMENTS OF OTHER LAWS

(a) This title does not alter or amend any law that governs the licensing and regulation of an individual or entity in carrying on a specific business or profession even if that law permits the business or profession to be conducted by a limited cooperative association, a foreign cooperative, or its members.

(b) A limited cooperative association may not conduct an activity that, under law of this state other than this title, may be conducted only by an entity that meets specific requirements for the internal affairs of that entity unless the organic rules of the association conform to those requirements.

(c) If an activity of a limited cooperative association is within the scope of the Uniform Common Interest Ownership Act, the requirements of the Uniform Common Interest Ownership Act apply, even if there is a conflicting provision in this title.

§ 110. RELATION TO RESTRAINT OF TRADE AND ANTITRUST LAWS

To the extent a limited cooperative association or activities conducted by the association in this state meet the material requirements for other cooperatives entitled to an exemption from or immunity under any provision of the restraint of trade or antitrust laws of this state, the association and its



activities are entitled to the exemption or immunity. This section does not create any new exemption or immunity for an association or affect any exemption or immunity provided to a cooperative organized under any other law.

§ 111. NAME

(a) Use of the term “cooperative” or its abbreviation under this title is not a violation of the provisions restricting the use of the term under section 992 of Title 11.

(b) The name of a limited cooperative association must contain the words “limited cooperative association” or “limited cooperative” or the abbreviation “L.C.A.” or “LCA.” “Limited” may be abbreviated as “Ltd.” “Cooperative” may be abbreviated as “Co-op” or “Coop.” “Association” may be abbreviated as “Assoc.” or “Assn.”

(c) Unless otherwise provided in this title, a limited cooperative association may apply to the secretary of state for authorization to use a name under the procedures and subject to the rules for associations of individuals set forth in Chapter 15 of Title 11.

§ 112. RESERVATION OF NAME

(a) A person may reserve the exclusive use of the name of a limited cooperative association, including a fictitious name for a foreign cooperative whose name is not available under section 111 of this title, by delivering an

application to the secretary of state for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the name applied for is available under section 111 of this title, the secretary of state shall reserve the name for the applicant's exclusive use for a nonrenewable period of 120 days.

(b) A person that has reserved a name for a limited cooperative association may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer which states the name, street address, and, if different, the mailing address of the transferee. If the person is an organizer of the association and the name of the association is the same as the reserved name, the delivery of articles of organization for filing by the secretary of state is a transfer by the person to the association.

#### § 113. EFFECT OF ORGANIC RULES

(a) The relations between a limited cooperative association and its members are consensual. Unless required, limited, or prohibited by this title, the organic rules may provide for any matter concerning the relations among the members of the association and between the members and the association, the activities of the association, and the conduct of its activities.

(b) The matters referred to in subdivisions (1) through (12) of this subsection may be varied only in the articles of organization. The articles may:

(1) state a term of existence for the association under subsection 105(c) of this title;

(2) limit or eliminate the acceptance of new or additional members by the initial board of directors under subsection 303(b) of this title;

(3) vary the limitations on the obligations and liability of members for association obligations under section 504 of this title;

(4) require a notice of an annual members meeting to state a purpose of the meeting under subsection 508(b) of this title;

(5) vary the board of directors meeting quorum under subsection 815(a) of this title;

(6) vary the matters the board of directors may consider in making a decision under section 820 of this title;

(7) specify causes of dissolution under subsection 1202(1) of this title;

(8) delegate amendment of the bylaws to the board of directors pursuant to subsection 405(f) of this title;

(9) provide for member approval of asset dispositions under section 1501 of this title; and

(10) subject to section 820 of this title, provide for the elimination or limitation of liability of a director to the association or its members for money damages pursuant to section 818 of this title;

(11) provide for permitting or making obligatory indemnification under subsection 901(a) of this title; and

(12) provide for any matters that may be contained in the organic rules, including those under subsection (c) of this section.

(c) The matters referred to in subdivisions (1) through (25) of this subsection may be varied only in the organic rules. The organic rules may:

(1) require more information to be maintained under section 114 of this title or provided to members under subsection 505(k) of this title;

(2) provide restrictions on transactions between a member and an association under section 115 of this title;

(3) provide for the percentage and manner of voting on amendments to the organic rules by district, class, or voting group under subsection 404(a) of this title;

(4) provide for the percentage vote required to amend the bylaws concerning the admission of new members under subdivision 405(e)(5) of this title;

(5) provide for terms and conditions to become a member under section 502 of this title;

(6) restrict the manner of conducting members' meetings under subsections 506(c) and 507(e) of this title;

(7) designate the presiding officer of members' meetings under subsections 506(e) and 507(g) of this title;

(8) require a statement of purposes in the annual meeting notice under subsection 508(b) of this title;

(9) increase quorum requirements for members' meetings under section 510 of this title and board of directors meetings under section 815 of this title;

(10) allocate voting power among members, including patron members and investor members, and provide for the manner of member voting and action as permitted by sections 511 through 517 of this title;

(11) authorize investor members and expand or restrict the transferability of members' interests to the extent provided in sections 602 through 604 of this title;

(12) provide for enforcement of a marketing contract under subsection 704(a) of this title;

(13) provide for qualification, election, terms, removal, filling vacancies, and member approval for compensation of directors in accordance with sections 803 through 805, 807, 809, and 810 of this title;

(14) restrict the manner of conducting board meetings and taking action without a meeting under sections 811 and 812 of this title;

(15) provide for frequency, location, notice and waivers of notice for board meetings under sections 813 and 814 of this title;

(16) increase the percentage of votes necessary for board action under subsection 816(b) of this title;

(17) provide for the creation of committees of the board of directors and matters related to the committees in accordance with section 817 of this title;

(18) provide for officers and their appointment, designation, and authority under section 822 of this title;

(19) provide for forms and values of contributions under section 1002 of this title;

(20) provide for remedies for failure to make a contribution under subsection 1003(b) of this title;

(21) provide for the allocation of profits and losses of the association, distributions, and the redemption or repurchase of distributed property other than money in accordance with sections 1004 through 1007 of this title;

(22) specify when a member's dissociation is wrongful and the liability incurred by the dissociating member for damage to the association under subsections 1101(b) and (c) of this title;

(23) provide the personal representative, or other legal representative of, a deceased member or a member adjudged incompetent with additional rights under section 1103 of this title;

(24) increase the percentage of votes required for board of director approval of:

(A) a resolution to dissolve under subdivision 1205(a)(1) of this title;

(B) a proposed amendment to the organic rules under subdivision 402(a)(1) of this title;

(C) a plan of conversion under subsection 1603(a) of this title;

(D) a plan of merger under subsection 1607(a) of this title; and

(E) a proposed disposition of assets under subsection 1503(1) of this title; and

(25) vary the percentage of votes required for members approval of:

(A) a resolution to dissolve under section 1205 of this title;

(B) an amendment to the organic rules under section 405 of this title;

(C) a plan of conversion under section 1603 of this title;

(D) a plan of merger under section 1608 of this title; and

(E) a disposition of assets under section 1504 of this title.

(d) The organic rules must address members' contributions pursuant to section 1001 of this title.

#### § 114. REQUIRED INFORMATION

(a) Subject to subsection (b) of this section, a limited cooperative association shall maintain in a record available at its principal office:

(1) a list containing the name, last known street address and, if different, mailing address, and term of office of each director and officer;

(2) the initial articles of organization and all amendments to and restatements of the articles, together with a signed copy of any power of attorney under which any article, amendment, or restatement has been signed;

(3) the initial bylaws and all amendments to and restatements of the bylaws;

(4) all filed articles of merger and statements of conversion;

(5) all financial statements of the association for the six most recent years;

(6) the six most recent annual reports delivered by the association to the secretary of state;

(7) the minutes of members' meetings for the six most recent years;

(8) evidence of all actions taken by members without a meeting for the six most recent years;

(9) a list containing:

(A) the name, in alphabetical order, and last known street address and, if different, mailing address of each patron member and each investor member; and

(B) if the association has districts or classes of members, information from which each current member in a district or class may be identified;

(10) the federal income tax returns, any state and local income tax returns, and any tax reports of the association for the six most recent years;



(11) accounting records maintained by the association in the ordinary course of its operations for the six most recent years;

(12) the minutes of directors' meetings for the six most recent years;

(13) evidence of all actions taken by directors without a meeting for the six most recent years;

(14) the amount of money contributed and agreed to be contributed by each member;

(15) a description and statement of the agreed value of contributions other than money made and agreed to be made by each member;

(16) the times at which, or events on the happening of which, any additional contribution is to be made by each member;

(17) for each member, a description and statement of the member's interest or information from which the description and statement can be derived; and

(18) all communications concerning the association made in a record to all members, or to all members in a district or class, for the six most recent years.

(b) If a limited cooperative association has existed for less than the period for which records must be maintained under subsection (a) of this section, the period records must be kept is the period of the association's existence.

(c) The organic rules may require that more information be maintained.

§ 115. BUSINESS TRANSACTIONS OF MEMBER WITH LIMITED  
COOPERATIVE ASSOCIATION

Subject to sections 818 and 819 of this title and except as otherwise provided in the organic rules or a specific contract relating to a transaction, a member may lend money to and transact other business with a limited cooperative association in the same manner as a person that is not a member.

§ 116. DUAL CAPACITY

A person may have a patron member's interest and an investor member's interest. When such person acts as a patron member, the person is subject to this title and the organic rules governing patron members. When such person acts as an investor member, the person is subject to this title and the organic rules governing investor members.

§ 117. DESIGNATED OFFICE AND AGENT FOR SERVICE OF  
PROCESS

(a) A limited cooperative association, or a foreign cooperative that has a certificate of authority under section 1404 of this title, shall designate and continuously maintain in this state:

(1) an office, as its designated office, which need not be a place of the association's or foreign cooperative's activity in this state; and

(2) an agent for service of process at the designated office.

(b) An agent for service of process of a limited cooperative association or foreign cooperative must be an individual who is a resident of this state or an entity that is authorized to do business in this state.

§ 118. CHANGE OF DESIGNATED OFFICE OR AGENT FOR SERVICE  
OF PROCESS

(a) Except as otherwise provided in subsection 207(e) of this title, to change its designated office, its agent for service of process, or the street address or, if different, mailing address of its principal office, a limited cooperative association must deliver to the secretary of state for filing a statement of change containing:

(1) the name of the limited cooperative association;

(2) the street address and, if different, mailing address of its designated office;

(3) if the designated office is to be changed, the street address and, if different, mailing address of the new designated office;

(4) the name of its agent for service of process; and

(5) if the agent for service of process is to be changed, the name of the new agent.

(b) Except as otherwise provided in subsection 207(e) of this title, to change its agent for service of process, the address of its designated office, or the street address or, if different, mailing address of its principal office, a

foreign cooperative shall deliver to the secretary of state for filing a statement of change containing:

(1) the name of the foreign cooperative;

(2) the name, street address and, if different, mailing address of its designated office;

(3) if the current agent for service of process or an address of the designated office is to be changed, the new information;

(4) the street address and, if different, the mailing address of its principal office; and

(5) if the street address or, if different, the mailing address of its principal office is to be changed, the street address and, if different, the mailing address of the new principal office.

(c) Except as otherwise provided in section 204 of this title, a statement of change is effective when filed by the secretary of state.

#### § 119. RESIGNATION OF AGENT FOR SERVICE OF PROCESS

(a) To resign as an agent for service of process of a limited cooperative association or foreign cooperative, the agent must deliver to the secretary of state for filing a statement of resignation containing the name of the agent and the name of the association or foreign cooperative.

(b) After receiving a statement of resignation under subsection (a) of this section, the secretary of state shall file it and mail or otherwise provide or

deliver a copy to the limited cooperative association or foreign cooperative at its principal office.

(c) An agency for service of process of a limited cooperative association or foreign cooperative terminates on the earlier of:

(1) the 31st day after the secretary of state files a statement of resignation under subsection (b) of this section; or

(2) when a record designating a new agent for service of process is delivered to the secretary of state for filing on behalf of the association or foreign cooperative and becomes effective.

#### § 120. SERVICE OF PROCESS

(a) An agent for service of process appointed by a limited cooperative association or foreign cooperative is an agent of the association or foreign cooperative for service of process, notice, or a demand required or permitted by law to be served upon the association or foreign cooperative.

(b) If a limited cooperative association or foreign cooperative does not appoint or maintain an agent for service of process in this state or the agent for service of process cannot with reasonable diligence be found at the address of the designated office on file with the secretary of state, the secretary of state is an agent of the association or foreign cooperative upon which process, notice, or a demand may be served.

(c) Service of process, notice, or a demand on the secretary of state as agent of a limited cooperative association or foreign cooperative may be made by delivering to the secretary of state two copies of the process, notice, or demand. The secretary of state shall forward one copy by registered or certified mail, return receipt requested, to the association or foreign cooperative at its principal office.

(d) Service is effected under subsection (c) of this section on the earliest of:

(1) the date the limited cooperative association or foreign cooperative receives the process, notice, or demand;

(2) the date shown on the return receipt, if signed on behalf of the association or foreign cooperative; or

(3) five days after the process, notice, or demand is deposited by the secretary of state for delivery by the United States Postal Service, if postage is prepaid to the address of the principal office on file with the secretary of state.

(e) The secretary of state shall keep a record of each process, notice, and demand served pursuant to this section and record the time of, and the action taken regarding, the service.

(f) This section does not affect the right to serve process, notice, or a demand in any other manner provided by law.

Article 2. Filing and Annual Reports

§ 201. SIGNING OF RECORDS DELIVERED FOR FILING TO

SECRETARY OF STATE

(a) A record delivered to the secretary of state for filing pursuant to this title must be signed as follows:

(1) The initial articles of organization must be signed by at least one organizer.

(2) A statement of cancellation under subsection 302(d) of this title must be signed by at least one organizer.

(3) Except as otherwise provided in subdivision (4) of this subsection, a record signed on behalf of an existing limited cooperative association must be signed by an officer.

(4) A record filed on behalf of a dissolved association must be signed by a person winding up activities under section 1206 of this title or a person appointed under section 1206 to wind up those activities.

(5) Any other record must be signed by the person on whose behalf the record is delivered to the secretary of state.

(b) Any record to be signed under this title may be signed by an authorized agent.

§ 202. SIGNING AND FILING OF RECORDS PURSUANT TO JUDICIAL  
ORDER

(a) If a person required by this title to sign or deliver a record to the secretary of state for filing does not do so, the superior court of the county of the limited cooperative association's principal office, or the foreign cooperative's registered office, upon petition of an aggrieved person, may order:

(1) the person to sign the record and deliver it to the secretary of state for filing; or

(2) delivery of the unsigned record to the secretary of state for filing.

(b) An aggrieved person under subsection (a) of this section, other than the limited cooperative association or foreign cooperative to which the record pertains, shall make the association or foreign cooperative a party to the action brought to obtain the order.

(c) An unsigned record filed pursuant to this section is effective.

§ 203. DELIVERY TO AND FILING OF RECORDS BY SECRETARY OF  
STATE; EFFECTIVE TIME AND DATE

(a) A record authorized or required by this title to be delivered to the secretary of state for filing must be captioned to describe the record's purpose, be in a medium and format permitted by the secretary of state, and be delivered to the secretary of state. If the filing fees have been paid, and unless the



secretary of state determines that the record does not comply with the filing requirements, the secretary of state shall file the record and send a copy of the filed record and a receipt for the fees to the person on whose behalf the record was filed.

(b) The secretary of state, upon request and payment of the required fee, shall furnish a certified copy of any record filed by the secretary of state under this title to the person making the request.

(c) Except as otherwise provided in sections 118 and 204 of this title, a record delivered to the secretary of state for filing under this title may specify an effective time and a delayed effective date that may include an effective time on that date. Except as otherwise provided in sections 118 and 204 of this title, a record filed by the secretary of state under this title is effective:

(1) if the record does not specify an effective time and does not specify a delayed effective date, on the date and at the time the record is filed as evidenced by the secretary of state's endorsement of the date and time on the record;

(2) if the record specifies an effective time but not a delayed effective date, on the date the record is filed at the time specified in the record;

(3) if the record specifies a delayed effective date but not an effective time, at 12:01 a.m. on the earlier of:

(A) the specified date; or

(B) the 90th day after the record is filed; or

(4) if the record specifies an effective time and a delayed effective date,

at the specified time on the earlier of:

(A) the specified date; or

(B) the 90th day after the record is filed.

§ 204. CORRECTING FILED RECORD

(a) A limited cooperative association or foreign cooperative may deliver to the secretary of state for filing a statement of correction to correct a record previously delivered by the association or foreign cooperative to the secretary of state and filed by the secretary of state if, at the time of filing, the record contained inaccurate information or was defectively signed.

(b) A statement of correction may not state a delayed effective date and must:

(1) describe the record to be corrected, including its filing date, or have attached a copy of the record as filed;

(2) specify the inaccurate information and the reason it is inaccurate or the manner in which the signing was defective; and

(3) correct the inaccurate information or defective signature.

(c) When filed by the secretary of state, a statement of correction is effective:

(1) when filed as to persons relying on the inaccurate information or defective signature before its correction and adversely affected by the correction; and

(2) as to all other persons, retroactively as of the effective date and time of the record the statement corrects.

§ 205. LIABILITY FOR INACCURATE INFORMATION IN FILED

RECORD

If a record delivered to the secretary of state for filing under this title and filed by the secretary of state contains inaccurate information, a person that suffers a loss by reliance on the information may recover damages for the loss from a person that signed the record or caused another to sign it on the person's behalf and knew at the time the record was signed that the information was inaccurate.

§ 206. CERTIFICATE OF GOOD STANDING OR AUTHORIZATION

(a) The secretary of state, upon request and payment of the required fee, shall furnish any person that requests it a certificate of good standing for a limited cooperative association if the records filed in the office of the secretary of state show that the secretary of state has filed the association's articles of organization, that the association is in good standing, and that the secretary of state has not filed a statement of termination.

(b) The secretary of state, upon request and payment of the required fee, shall furnish to any person that requests it a certificate of authority for a foreign cooperative if the records filed in the office of the secretary of state show that the secretary of state has filed the foreign cooperative's certificate of authority, has not revoked nor has reason to revoke the certificate of authority, and has not filed a notice of cancellation.

(c) Subject to any exceptions stated in the certificate, a certificate of good standing or authority issued by the secretary of state establishes conclusively that the limited cooperative association or foreign cooperative is in good standing or is authorized to transact business in this state.

§ 207. ANNUAL REPORT FOR SECRETARY OF STATE

(a) A limited cooperative association or foreign cooperative authorized to transact business in this state shall deliver to the secretary of state for filing an annual report that states:

(1) the name of the association or foreign cooperative;

(2) the street address and, if different, mailing address of the association's or foreign cooperative's designated office and the name of its agent for service of process at the designated office;

(3) the street address and, if different, mailing address of the association's or foreign cooperative's principal office; and

(4) in the case of a foreign cooperative, the state or other jurisdiction under whose law the foreign cooperative is formed and any alternative name adopted under section 1405 of this title.

(b) Information in an annual report must be current as of the date the report is delivered to the secretary of state.

(c) The first annual report must be delivered to the secretary of state between January 1 and April 1 of the year following the calendar year in which the limited cooperative association is formed or the foreign cooperative is authorized to transact business in this state. An annual report shall be delivered to the secretary of state within two and one-half months after the expiration of the limited cooperative association's fiscal year.

(d) If an annual report does not contain the information required by subsection (a) of this section, the secretary of state shall promptly notify the reporting limited cooperative association or foreign cooperative and return the report for correction. If the report is corrected to contain the information required by subsection (a) of this section and delivered to the secretary of state not later than 30 days after the date of the notice from the secretary of state, it is timely delivered.

(e) If a filed annual report contains an address of the designated office, the name of the agent for service of process, or address of the principal office which differs from the information shown in the records of the secretary of

state immediately before the filing, the differing information in the annual report is considered a statement of change.

(f) If a limited cooperative association fails to deliver an annual report under this section, the secretary of state may proceed under section 1211 of this title to dissolve the association administratively.

(g) If a foreign cooperative fails to deliver an annual report under this section, the secretary of state may revoke the certificate of authority of the cooperative.

#### § 208. FILING FEES

The filing fees for records filed under this article by the secretary of state are the same as those set forth for a limited liability company under section 3013 of Title 11.

### Article 3. Formation and Initial Articles of Organization of Limited Cooperative Association

#### § 301. ORGANIZERS

A limited cooperative association must be organized by one or more organizers.

§ 302. FORMATION OF LIMITED COOPERATIVE ASSOCIATION;

ARTICLES OF ORGANIZATION

(a) To form a limited cooperative association, an organizer of the association must deliver articles of organization to the secretary of state for filing. The articles must state:

(1) the name of the association;

(2) the purposes for which the association is formed;

(3) the street address and, if different, mailing address of the association's initial designated office and the name of the association's initial agent for service of process at the designated office;

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

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

(6) the term for which the association is to exist if other than perpetual.

(b) Subject to subsection 113(a) of this title, articles of organization may contain any other provisions in addition to those required by subsection (a) of this section.

(c) A limited cooperative association is formed after articles of organization that substantially comply with subsection (a) of this section are

delivered to the secretary of state, are filed, and become effective under subsection 203(c) of this title.

(d) If articles of organization filed by the secretary of state provide for a delayed effective date, a limited cooperative association is not formed if, before the articles take effect, an organizer signs and delivers to the secretary of state for filing a statement of cancellation.

§ 303. ORGANIZATION OF LIMITED COOPERATIVE ASSOCIATION

(a) After a limited cooperative association is formed:

(1) if initial directors are named in the articles of organization, 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 of organization, 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 of organization 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.

§ 304. BYLAWS

(a) Bylaws must be in a record and, if not stated in the articles of organization, must include:

(1) a statement of the capital structure of the limited cooperative association, including:

(A) 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; and

(B) the rights to share in profits or distributions of the association;

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

(3) a statement designating voting and other governance rights, including which members have voting power and any restriction on voting power;

(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 the manner in which profits and losses are allocated and distributions are made among patron members and, if investor

members are authorized, the manner in which profits and losses are allocated and how distributions are made among investor members and between patron members and investor members;

(6) 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

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

(b) Subject to subsection 113(c) of this title and the articles of organization, bylaws may contain any other provision for managing and regulating the affairs of the association.

(c) In addition to amendments permitted under Article 4 of this title, the initial board of directors may amend the bylaws by a majority vote of the directors at any time before the admission of members.

Article 4. Amendment of Organic Rules of Limited  
Cooperative Association

§ 401. AUTHORITY TO AMEND ORGANIC RULES

(a) A limited cooperative association may amend its organic rules under this article for any lawful purpose. In addition, the initial board of directors may amend the bylaws of an association under section 304 of this title.

(b) Unless the organic rules otherwise provide, a member does not have a vested property right resulting from any provision in the organic rules, including a provision relating to the management, control, capital structure, distribution, entitlement, purpose, or duration of the limited cooperative association.

§ 402. NOTICE AND ACTION ON AMENDMENT OF ORGANIC RULES

(a) Except as provided in subsections 401(a) and 405(f) of this title, the organic rules of a limited cooperative association may be amended only at a members meeting. An amendment may be proposed by either:

(1) a majority of the board of directors, or a greater percentage if required by the organic rules; or

(2) one or more petitions signed by at least 10 percent of the patron members or at least 10 percent of the investor members.

(b) The board of directors shall call a members meeting to consider an amendment proposed pursuant to subsection (a) of this section. The meeting

must be held not later than 90 days following the proposal of the amendment by the board or receipt of a petition. The board must mail or otherwise transmit or deliver in a record to each member:

(1) the proposed amendment, or a summary of the proposed amendment and a statement of the manner in which a copy of the amendment in a record may be reasonably obtained by a member;

(2) a recommendation that the members approve the amendment, or if the board determines that because of conflict of interest or other special circumstances it should not make a favorable recommendation, the basis for that determination;

(3) a statement of any condition of the board's submission of the amendment to the members; and

(4) notice of the meeting at which the proposed amendment will be considered, which must be given in the same manner as notice for a special meeting of members.

§ 403. METHOD OF VOTING ON AMENDMENT OF ORGANIC RULES

(a) A substantive change to a proposed amendment of the organic rules may not be made at the members meeting at which a vote on the amendment occurs.

(b) A nonsubstantive change to a proposed amendment of the organic rules may be made at the members meeting at which the vote on the amendment occurs and need not be separately voted upon by the board of directors.

(c) A vote to adopt a nonsubstantive change to a proposed amendment to the organic rules must be by the same percentage of votes required to pass a proposed amendment.

#### § 404. VOTING BY DISTRICT, CLASS, OR VOTING GROUP

(a) This section applies if the organic rules provide for voting by district or class, or if there is one or more identifiable voting groups that a proposed amendment to the organic rules would affect differently from other members with respect to matters identified in subdivisions 405(e)(1) through (5) of this title. Approval of the amendment requires the same percentage of votes of the members of that district, class, or voting group required in sections 405 and 514 of this title.

(b) If a proposed amendment to the organic rules would affect members in two or more districts or classes entitled to vote separately under subsection (a) of this section in the same or a substantially similar way, the districts or classes affected must vote as a single voting group unless the organic rules otherwise provide for separate voting.

#### § 405. APPROVAL OF AMENDMENT

(a) Subject to section 404 of this title and subsections (c) and (d) of this

section, an amendment to the articles of organization must be approved by:

(1) at least two-thirds of the voting power of members present at a members meeting called under section 402 of this title; and

(2) if the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage vote by patron members.

(b) Subject to section 404 of this title and subsections (c), (d), (e) and (f) of this section, an amendment to the bylaws must be approved by:

(1) at least a majority vote of the voting power of all members present at a members meeting called under section 402 of this title, unless the organic rules require a greater percentage; and

(2) if a limited cooperative association has investor members, a majority of the votes cast by patron members, unless the organic rules require a larger affirmative vote by patron members.

(c) The organic rules may require that the percentage of votes under subdivision (a)(1) or (b)(1) of this section be:

(1) a different percentage that is not less than a majority of members voting at the meeting;

(2) measured against the voting power of all members; or

(3) a combination of subdivisions (1) and (2) of this subsection.

(d) Consent in a record by a member must be delivered to a limited cooperative association before delivery of an amendment to the articles of organization or restated articles of organization for filing pursuant to section 407 of this title, if as a result of the amendment the member will have:

- (1) personal liability for an obligation of the association; or
- (2) an obligation or liability for an additional contribution.

(e) The vote required to amend bylaws must satisfy the requirements of subsection (a) of this section if the proposed amendment modifies:

(1) the equity capital structure of the limited cooperative association, including the rights of the association's members to share in profits or distributions, or the relative rights, preferences, and restrictions granted to or imposed upon one or more districts, classes, or voting groups of similarly situated members;

(2) the transferability of a member's interest;

(3) the manner or method of allocation of profits or losses among members;

(4) the quorum for a meeting and the rights of voting and governance; or

(5) unless otherwise provided in the organic rules, the terms for admission of new members.

(f) Except for the matters described in subsection (e) of this section, the articles of organization may delegate amendment of all or a part of the bylaws

to the board of directors without requiring member approval.

(g) If the articles of organization delegate amendment of bylaws to the board of directors, the board shall provide a description of any amendment of the bylaws made by the board to the members in a record not later than 30 days after the amendment, but the description may be provided at the next annual members' meeting if the meeting is held within the 30-day period.

§ 406. RESTATED ARTICLES OF ORGANIZATION

A limited cooperative association, by the affirmative vote of a majority of the board of directors taken at a meeting for which the purpose is stated in the notice of the meeting, may adopt restated articles of organization that contain the original articles as previously amended. Restated articles may contain amendments if the restated articles are adopted in the same manner and with the same vote as required for amendments to the articles under subsection 405(a) of this title. Upon filing, restated articles supersede the existing articles and all amendments.

§ 407. AMENDMENT OR RESTATEMENT OF ARTICLES OF ORGANIZATION; FILING

(a) To amend its articles of organization, a limited cooperative association must deliver to the secretary of state for filing an amendment of the articles, or restated articles of organization or articles of conversion or merger pursuant to



Article 16 of this title, which contain one or more amendments of the articles of organization, stating:

- (1) the name of the association;
- (2) the date of filing of the association's initial articles; and
- (3) the changes the amendment makes to the articles as most recently

amended or restated.

(b) Before the beginning of the initial meeting of the board of directors, an organizer who knows that information in the filed articles of organization was inaccurate when the articles were filed or has become inaccurate due to changed circumstances shall promptly:

- (1) cause the articles to be amended; or
- (2) if appropriate, deliver an amendment to the secretary of state for

filing pursuant to section 203 of this title.

(c) If restated articles of organization are adopted, the restated articles may be delivered to the secretary of state for filing in the same manner as an amendment.

(d) Upon filing, an amendment of the articles of organization or other record containing an amendment of the articles which has been properly adopted by the members is effective as provided in subsection 203(c) of this title.

Article 5. Members

§ 501. MEMBERS

To begin business, a limited cooperative association must have at least two patron members unless the sole member is a cooperative.

§ 502. BECOMING A MEMBER

A person becomes a member:

- (1) as provided in the organic rules;
- (2) as the result of a merger or conversion under Article 16 of this title;

or

- (3) with the consent of all the members.

§ 503. NO POWER AS MEMBER TO BIND ASSOCIATION

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

§ 504. NO LIABILITY AS MEMBER FOR ASSOCIATION'S

OBLIGATIONS

Unless the articles of organization otherwise provide, 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.

§ 505. RIGHT OF MEMBER AND FORMER MEMBER TO  
INFORMATION

(a) Not later than 10 business days after receipt of a demand made in a record, a limited cooperative association shall permit a member to obtain, inspect, and copy in the association's principal office required information listed in subdivisions 114(a)(1) through (8) of this title during regular business hours. A member need not have any particular purpose for seeking the information. The association is not required to provide the same information listed in subdivisions 114(a)(2) through (8) of this title to the same member more than once during a six-month period.

(b) On demand made in a record received by the limited cooperative association, a member may obtain, inspect, and copy in the association's principal office required information listed in subdivisions 114(a)(9), (10), (12), (13), (16), and (18) of this title during regular business hours, if:

(1) the member seeks the information in good faith and for a proper purpose reasonably related to the member's interest;

(2) the demand includes a description with reasonable particularity of the information sought and the purpose for seeking the information;

(3) the information sought is directly connected to the member's purpose; and

(4) the demand is reasonable.

(c) Not later than 10 business days after receipt of a demand pursuant to subsection (b) of this section, a limited cooperative association shall provide, in a record, the following information to the member that made the demand:

(1) if the association agrees to provide the demanded information:

(A) what information the association will provide in response to the demand; and

(B) a reasonable time and place at which the association will provide the information; or

(2) if the association declines to provide some or all of the demanded information, the association's reasons for declining.

(d) A person dissociated as a member may obtain, inspect, and copy information available to a member under subsection (a) or (b) of this section by delivering a demand in a record to the limited cooperative association in the same manner and subject to the same conditions applicable to a member under subsection (b) of this section if:

(1) the information pertains to the period during which the person was a member in the association; and

(2) the person seeks the information in good faith.

(e) A limited cooperative association shall respond to a demand made pursuant to subsection (d) of this section in the manner provided in subsection (c) of this section.

(f) Not later than 10 business days after receipt by a limited cooperative association of a demand made by a member in a record, but not more often than once in a six-month period, the association shall deliver to the member a record stating the information with respect to the member required by subdivision 114(a)(17) of this title.

(g) A limited cooperative association may impose reasonable restrictions, including nondisclosure restrictions, on the use of information obtained under this section. In a dispute concerning the reasonableness of a restriction under this subsection, the association has the burden of proving reasonableness.

(h) A limited cooperative association may charge a person that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

(i) A person that may obtain information under this section may obtain the information through an attorney or other agent. A restriction imposed on the person under subsection (g) of this section or by the organic rules applies to the attorney or other agent.

(j) The rights stated in this section do not extend to a person as transferee.

(k) The organic rules may require a limited cooperative association to provide more information than required by this section and may establish conditions and procedures for providing the information.

§ 506. ANNUAL MEETING OF MEMBERS

(a) Members shall meet annually at a time provided in the organic rules or set by the board of directors not inconsistent with the organic rules.

(b) An annual members meeting may be held inside or outside this state at the place stated in the organic rules or selected by the board of directors not inconsistent with the organic rules.

(c) Unless the organic rules otherwise provide, members may attend or conduct an annual members meeting through any means of communication if all members attending the meeting can communicate with each other during the meeting.

(d) The board of directors shall report, or cause to be reported, at the association's annual members meeting the association's business and financial condition as of the close of the most recent fiscal year.

(e) Unless the organic rules otherwise provide, the board of directors shall designate the presiding officer of the association's annual members meeting.

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

§ 507. SPECIAL MEETING OF MEMBERS

(a) A special meeting of members may be called only:

(1) as provided in the organic rules;

(2) by a majority vote of the board of directors on a proposal stating the purpose of the meeting;

(3) by demand in a record signed by members holding at least 20 percent of the voting power of the persons in any district or class entitled to vote on the matter that is the purpose of the meeting stated in the demand; or

(4) by demand in a record signed by members holding at least 10 percent of the total voting power of all the persons entitled to vote on the matter that is the purpose of the meeting stated in the demand.

(b) A demand under subdivision (a)(3) or (4) of this section must be submitted to the officer of the limited cooperative association charged with keeping its records.

(c) Any voting member may withdraw its demand under subdivision (a)(3) or (4) of this section before receipt by the limited cooperative association of demands sufficient to require a special meeting of members.

(d) A special meeting of members may be held inside or outside this state at the place stated in the organic rules or selected by the board of directors not inconsistent with the organic rules.

(e) Unless the organic rules otherwise provide, members may attend or conduct a special meeting of members through the use of any means of communication if all members attending the meeting can communicate with each other during the meeting.

(f) Only business within the purpose or purposes stated in the notice of a special meeting of members may be conducted at the meeting.

(g) Unless the organic rules otherwise provide, the presiding officer of a special meeting of members shall be designated by the board of directors.

§ 508. NOTICE OF MEMBERS MEETING

(a) A limited cooperative association shall notify each member of the time, date, and place of a members meeting at least 15 and not more than 60 days before the meeting.

(b) Unless the articles of organization otherwise provide, notice of an annual members meeting need not include any purpose of the meeting.

(c) Notice of a special meeting of members must include each purpose of the meeting as contained in the demand under subdivision 507(a)(3) or (4) of this title or as voted upon by the board of directors under subdivision 507(a)(2) of this title.

(d) Notice of a members meeting must be given in a record unless oral notice is reasonable under the circumstances.

§ 509. WAIVER OF MEMBERS MEETING NOTICE

(a) A member may waive notice of a members meeting before, during, or after the meeting.

(b) A member's participation in a members meeting is a waiver of notice of that meeting unless the member objects to the meeting at the beginning of the



meeting or promptly upon the member's arrival at the meeting and does not thereafter vote for or assent to action taken at the meeting.

§ 510. QUORUM OF MEMBERS

Unless the organic rules otherwise require a greater number of members or percentage of the voting power, the voting member or members present at a members meeting constitute a quorum.

§ 511. VOTING BY PATRON MEMBERS

Except as provided by subsection 512(a) of this title, each patron member has one vote. The organic rules may allocate voting power among patron members as provided in subsection 512(a) of this title.

§ 512. DETERMINATION OF VOTING POWER OF PATRON MEMBER

(a) The organic rules may allocate voting power among patron members on the basis of one or a combination of the following:

(1) one member, one vote;

(2) use or patronage;

(3) equity; or

(4) if a patron member is a cooperative, the number of its patron members.

(b) The organic rules may provide for the allocation of patron member voting power by districts or class, or any combination thereof.

§ 513. VOTING BY INVESTOR MEMBERS

If the organic rules provide for investor members, each investor member has one vote, unless the organic rules otherwise provide. The organic rules may provide for the allocation of investor member voting power by class, classes, or any combination of classes.

§ 514. VOTING REQUIREMENTS FOR MEMBERS

If a limited cooperative association has both patron and investor members, the following rules apply:

(1) the total voting power of all patron members may not be less than a majority of the entire voting power entitled to vote.

(2) action on any matter is approved only upon the affirmative vote of at least a majority of:

(A) all members voting at the meeting unless more than a majority is required by Articles 4, 12, 15, and 16 of this title or the organic rules; and

(B) votes cast by patron members unless the organic rules require a larger affirmative vote by patron members.

(3) The organic rules may provide for the percentage of the affirmative votes that must be cast by investor members to approve the matter.

§ 515. MANNER OF VOTING

(a) Unless the organic rules otherwise provide, voting by a proxy at a members meeting is prohibited. This subsection does not prohibit delegate voting based on district or class.

(b) If voting by a proxy is permitted, a patron member may appoint only another patron member as a proxy and, if investor members are permitted, an investor member may appoint only another investor member as a proxy.

(c) The organic rules may provide for the manner of and provisions governing the appointment of a proxy.

(d) The organic rules may provide for voting on any question by ballot delivered by mail or voting by other means on questions that are subject to vote by members.

§ 516. ACTION WITHOUT A MEETING

(a) Unless the organic rules require that action be taken only at a members meeting, any action that may be taken by the members may be taken without a meeting if each member entitled to vote on the action consents in a record to the action.

(b) Consent under subsection (a) of this section may be withdrawn by a member in a record at any time before the limited cooperative association receives a consent from each member entitled to vote.

(c) Consent to any action may specify the effective date or time of the action.

§ 517. DISTRICTS AND DELEGATES; CLASSES OF MEMBERS

(a) The organic rules may provide for the formation of geographic districts of patron members and:

(1) for the conduct of patron member meetings by districts and the election of directors at the meetings; or

(2) that districts may elect district delegates to represent and vote for the district at members meetings.

(b) A delegate elected under subdivision (a)(2) of this section has one vote unless voting power is otherwise allocated by the organic rules.

(c) The organic rules may provide for the establishment of classes of members, for the preferences, rights, and limitations of the classes, and:

(1) for the conduct of members meetings by classes and the election of directors at the meetings; or

(2) that classes may elect class delegates to represent and vote for the class in members meetings.

(d) A delegate elected under subdivision (c)(2) of this section has one vote unless voting power is otherwise allocated by the organic rules.

Article 6. Member's Interest in Limited Cooperative Association

§ 601. MEMBER'S INTEREST

A member's interest:

(1) is personal property;

(2) consists of:

(A) governance rights;

(B) financial rights; and

(C) the right or obligation, if any, to do business with the limited

cooperative association; and

(3) may be in certificated or uncertificated form.

§ 602. PATRON AND INVESTOR MEMBERS' INTERESTS

(a) Unless the organic rules establish investor members' interests, a member's interest is a patron member's interest.

(b) Unless the organic rules otherwise provide, if a limited cooperative association has investor members, while a person is a member of the association, the person:

(1) if admitted as a patron member, remains a patron member;

(2) if admitted as an investor member, remains an investor member; and

(3) if admitted as a patron member and investor member remains a patron and investor member if not dissociated in one of the capacities.

§ 603. TRANSFERABILITY OF MEMBER'S INTEREST

(a) The provisions relating to the transferability of a member's interest are subject to Title 9A.

(b) Unless the organic rules otherwise provide, a member's interest other than financial rights is not transferable.

(c) Unless a transfer is restricted or prohibited by the organic rules, a member may transfer its financial rights in the limited cooperative association.

(d) The terms of any restriction on transferability of financial rights must be:

(1) set forth in the organic rules and the member records of the association; and

(2) conspicuously noted on any certificates evidencing a member's interest.

(e) A transferee of a member's financial rights, to the extent the rights are transferred, has the right to share in the allocation of profits or losses and to receive the distributions to the member transferring the interest to the same extent as the transferring member.

(f) A transferee of a member's financial rights does not become a member upon transfer of the rights unless the transferee is admitted as a member by the limited cooperative association.

(g) A limited cooperative association need not give effect to a transfer under this section until the association has notice of the transfer.

(h) A transfer of a member's financial rights in violation of a restriction on transfer contained in the organic rules is ineffective as to a person having notice of the restriction at the time of transfer.

§ 604. SECURITY INTEREST AND SET-OFF

(a) A member or transferee may create an enforceable security interest in its financial rights in a limited cooperative association.

(b) Unless the organic rules otherwise provide, a member may not create an enforceable security interest in the member's governance rights in a limited cooperative association.

(c) The organic rules may provide that a limited cooperative association has a security interest in the financial rights of a member to secure payment of any indebtedness or other obligation of the member to the association. A security interest provided for in the organic rules is enforceable under, and governed by, Article 9 of Title 9A.

(d) Unless the organic rules otherwise provide, a member may not compel the limited cooperative association to offset financial rights against any indebtedness or obligation owed to the association.

§ 605. CHARGING ORDERS FOR JUDGMENT CREDITOR OF MEMBER  
OR TRANSFEREE

(a) On application by a judgment creditor of a member or transferee, a court may enter a charging order against the financial rights of the judgment debtor for the unsatisfied amount of the judgment. A charging order issued under this subsection constitutes a lien on the judgment debtor's financial rights and requires the limited cooperative association to pay over to the creditor or receiver, to the extent necessary to satisfy the judgment, any distribution that would otherwise be paid to the judgment debtor.

(b) To the extent necessary to effectuate the collection of distributions pursuant to a charging order under subsection (a) of this section, the court may:

(1) appoint a receiver of the share of the distributions due or to become due to the judgment debtor under the judgment debtor's financial rights, with the power to make all inquiries the judgment debtor might have made; and

(2) make all other orders that the circumstances of the case may require to give effect to the charging order.

(c) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the court may foreclose the lien and order the sale of the financial rights. The purchaser at the foreclosure sale obtains only the financial rights that are subject to the charging order, does not thereby become a member, and is subject to section 603 of this title.



(d) At any time before a sale pursuant to a foreclosure, a member or transferee whose financial rights are subject to a charging order under subsection (a) of this section may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court that issued the charging order.

(e) At any time before sale pursuant to a foreclosure, the limited cooperative association or one or more members whose financial rights are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and succeed to the rights of the judgment creditor, including the charging order. Unless the organic rules otherwise provide, the association may act under this subsection only with the consent of all members whose financial rights are not subject to the charging order.

(f) This title does not deprive any member or transferee of the benefit of any exemption laws applicable to the member's or transferee's financial rights.

(g) This section provides the exclusive remedy by which a judgment creditor of a member or transferee may satisfy the judgment from the member's or transferee's financial rights.

#### Article 7. Marketing Contracts

##### § 701. AUTHORITY

In this article, "marketing contract" means a contract between a limited cooperative association and another person, that need not be a patron member:

(1) requiring the other person to sell, or deliver for sale or marketing on the person's behalf, a specified part of the person's products, commodities, or goods exclusively to or through the association or any facilities furnished by the association; or

(2) authorizing the association to act for the person in any manner with respect to the products, commodities, or goods.

§ 702. MARKETING CONTRACTS

(a) If a marketing contract provides for the sale of products, commodities, or goods to a limited cooperative association, the sale transfers title to the association upon delivery or at any other specific time expressly provided by the contract.

(b) A marketing contract may:

(1) authorize a limited cooperative association to create an enforceable security interest in the products, commodities, or goods delivered; and

(2) allow the association to sell the products, commodities, or goods delivered and pay the sales price on a pooled or other basis after deducting selling costs, processing costs, overhead, expenses, and other charges.

(c) Some or all of the provisions of a marketing contract between a patron member and a limited cooperative association may be contained in the organic rules.

§ 703. DURATION OF MARKETING CONTRACT

The initial duration of a marketing contract may not exceed 10 years, but the contract may be self-renewing for additional periods not exceeding five years each. Unless the contract provides for another manner or time for termination, either party may terminate the contract by giving notice in a record at least 90 days before the end of the current term.

§ 704. REMEDIES FOR BREACH OF CONTRACT

(a) Damages to be paid to a limited cooperative association for breach or anticipatory repudiation of a marketing contract may be liquidated, but only at an amount or under a formula that is reasonable in light of the actual or anticipated harm caused by the breach or repudiation. A provision that so provides is not a penalty.

(b) Upon a breach of a marketing contract, whether by anticipatory repudiation or otherwise, a limited cooperative association may seek:

- (1) an injunction to prevent further breach; and
- (2) specific performance.

(c) The remedies in this section are in addition to any other remedies available to an association under law other than this title.

Article 8. Directors and Officers

§ 801. BOARD OF DIRECTORS

(a) A limited cooperative association must have a board of directors of at least three individuals, unless the association has fewer than three members. If the association has fewer than three members, the number of directors may not be fewer than the number of members.

(b) The affairs of a limited cooperative association must be managed by, or under the direction of, the board of directors. The board may adopt policies and procedures that do not conflict with the organic rules or this title.

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

§ 802. NO LIABILITY AS DIRECTOR FOR LIMITED COOPERATIVE ASSOCIATION'S OBLIGATIONS

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.

§ 803. QUALIFICATIONS OF DIRECTORS

(a) Unless the organic rules otherwise provide, and subject to subsection (c) of this section, each director of a limited cooperative association must be an

individual who is a member of the association or an individual who is designated by a member that is not an individual for purposes of qualifying and serving as a director. Initial directors need not be members.

(b) Unless the organic rules otherwise provide, a director may be an officer or employee of the limited cooperative association.

(c) If the organic rules provide for nonmember directors, the number of nonmember directors may not exceed:

(1) one, if there are two through four directors;

(2) two, if there are five through eight directors; or

(3) one-third of the total number of directors if there are at least nine directors.

(d) The organic rules may provide qualifications for directors in addition to those in this section.

#### § 804. ELECTION OF DIRECTORS AND COMPOSITION OF BOARD

(a) Unless the organic rules require a greater number:

(1) the number of directors that must be patron members may not be fewer than:

(A) one, if there are two or three directors;

(B) two, if there are four or five directors;

(C) three, if there are six through eight directors; or

(D) one-third of the directors if there are at least nine directors; and

(2) a majority of the board of directors must be elected exclusively by patron members.

(b) Unless the organic rules otherwise provide, if a limited cooperative association has investor members, the directors who are not elected exclusively by patron members are elected by the investor members.

(c) Subject to subsection (a) of this section, the organic rules may provide for the election of all or a specified number of directors by one or more districts or classes of members.

(d) Subject to subsection (a) of this section, the organic rules may provide for the nomination or election of directors by districts or classes, directly or by district delegates.

(e) If a class of members consists of a single member, the organic rules may provide for the member to appoint a director or directors.

(f) Unless the organic rules otherwise provide, cumulative voting for directors is prohibited.

(g) Except as otherwise provided by the organic rules, subsection (e) of this section, or sections 303, 516, 517, and 809 of this title, member directors must be elected at an annual members meeting.

#### § 805. TERM OF DIRECTOR

(a) Unless the organic rules otherwise provide, and subject to subsections (c) and (d) of this section and subsection 303(c) of this title, the term of a

director expires at the annual members meeting following the director's election or appointment. The term of a director may not exceed three years.

(b) Unless the organic rules otherwise provide, a director may be reelected.

(c) Except as otherwise provided in subsection (d) of this section, a director continues to serve until a successor director is elected or appointed and qualifies or the director is removed, resigns, is adjudged incompetent, or dies.

(d) Unless the organic rules otherwise provide, a director does not serve the remainder of the director's term if the director ceases to qualify to be a director.

#### § 806. RESIGNATION OF DIRECTOR

A director may resign at any time by giving notice in a record to the limited cooperative association. Unless the notice states a later effective date, a resignation is effective when the notice is received by the association.

#### § 807. REMOVAL OF DIRECTOR

Unless the organic rules otherwise provide, the following rules apply:

(1) Members may remove a director with or without cause.

(2) A member or members holding at least 10 percent of the total voting power entitled to be voted in the election of a director may demand removal of the director by one or more signed petitions submitted to the officer of the limited cooperative association charged with keeping its records.

(3) Upon receipt of a petition for removal of a director, an officer of the association or the board of directors shall:

(A) call a special meeting of members to be held not later than 90 days after receipt of the petition by the association; and

(B) mail or otherwise transmit or deliver in a record to the members entitled to vote on the removal, and to the director to be removed, notice of the meeting which complies with section 508 of this title.

(4) A director is removed if the votes in favor of removal are equal to or greater than the votes required to elect the director.

#### § 808. SUSPENSION OF DIRECTOR BY BOARD

(a) A board of directors may suspend a director if, considering the director's course of conduct and the inadequacy of other available remedies, immediate suspension is necessary for the best interests of the association and the director is engaging, or has engaged, in:

(1) fraudulent conduct with respect to the association or its members;

(2) gross abuse of the position of director;

(3) intentional or reckless infliction of harm on the association; or

(4) any other behavior, act, or omission as provided by the organic rules.

(b) A suspension under subsection (a) is effective for 30 days unless the board of directors calls and gives notice of a special meeting of members for removal of the director before the end of the 30-day period in which case the



suspension is effective until adjournment of the meeting or the director is removed.

§ 809. VACANCY ON BOARD

(a) Unless the organic rules otherwise provide, a vacancy on the board of directors must be filled:

(1) within a reasonable time by majority vote of the remaining directors until the next annual members meeting or a special meeting of members called to fill the vacancy; and

(2) for the unexpired term by members at the next annual members meeting or a special meeting of members called to fill the vacancy.

(b) Unless the organic rules otherwise provide, if a vacating director was elected or appointed by a class of members or a district:

(1) the new director must be of that class or district; and

(2) the selection of the director for the unexpired term must be conducted in the same manner as would the selection for that position without a vacancy.

(c) If a member appointed a vacating director, the organic rules may provide for that member to appoint a director to fill the vacancy.

§ 810. REMUNERATION OF DIRECTORS

Unless the organic rules otherwise provide, the board of directors may set the remuneration of directors and of nondirector committee members appointed under subsection 817(a) of this title.

§ 811. MEETINGS

(a) A board of directors shall meet at least annually and may hold meetings inside or outside this state.

(b) Unless the organic rules otherwise provide, a board of directors may permit directors to attend or conduct board meetings through the use of any means of communication, if all directors attending the meeting can communicate with each other during the meeting.

§ 812. ACTION WITHOUT MEETING

(a) Unless prohibited by the organic rules, any action that may be taken by a board of directors may be taken without a meeting if each director consents in a record to the action.

(b) Consent under subsection (a) of this section may be withdrawn by a director in a record at any time before the limited cooperative association receives consent from all directors.

(c) A record of consent for any action under subsection (a) of this section may specify the effective date or time of the action.

§ 813. MEETINGS AND NOTICE

(a) Unless the organic rules otherwise provide, a board of directors may establish a time, date, and place for regular board meetings, and notice of the time, date, place, or purpose of those meetings is not required.

(b) Unless the organic rules otherwise provide, notice of the time, date, and place of a special meeting of a board of directors must be given to all directors at least three days before the meeting, the notice must contain a statement of the purpose of the meeting, and the meeting is limited to the matters contained in the statement.

§ 814. WAIVER OF NOTICE OF MEETING

(a) Unless the organic rules otherwise provide, a director may waive any required notice of a meeting of the board of directors in a record before, during, or after the meeting.

(b) Unless the organic rules otherwise provide, a director's participation in a meeting is a waiver of notice of that meeting unless:

(1) the director objects to the meeting at the beginning of the meeting or promptly upon the director's arrival at the meeting and does not thereafter vote in favor of or otherwise assent to the action taken at the meeting; or

(2) the director promptly objects upon the introduction of any matter for which notice under section 813 of this title has not been given and does not thereafter vote in favor of or otherwise assent to the action taken on the matter.

§ 815. QUORUM

(a) Unless the articles of organization provide for a greater number, a majority of the total number of directors specified by the organic rules constitutes a quorum for a meeting of the directors.

(b) If a quorum of the board of directors is present at the beginning of a meeting, any action taken by the directors present is valid even if withdrawal of directors originally present results in the number of directors being fewer than the number required for a quorum.

(c) A director present at a meeting but objecting to notice under subdivision 814(b)(1) or (2) of this title does not count toward a quorum.

§ 816. VOTING

(a) Each director shall have one vote for purposes of decisions made by the board of directors.

(b) Unless the organic rules otherwise provide, the affirmative vote of a majority of directors present at a meeting is required for action by the board of directors.

§ 817. COMMITTEES

(a) Unless the organic rules otherwise provide, a board of directors may create one or more committees and appoint one or more individuals to serve on a committee.

(b) Unless the organic rules otherwise provide, an individual appointed to serve on a committee of a limited cooperative association need not be a director or member.

(c) An individual who is not a director and is serving on a committee has the same rights, duties, and obligations as a director serving on the committee.

(d) Unless the organic rules otherwise provide, each committee of a limited cooperative association may exercise the powers delegated to it by the board of directors, but a committee may not:

(1) approve allocations or distributions except according to a formula or method prescribed by the board of directors;

(2) approve or propose to members action requiring approval of members; or

(3) fill vacancies on the board of directors or any of its committees.

#### § 818. STANDARDS OF CONDUCT AND LIABILITY

Except as otherwise provided in section 820 of this title:

(1) the discharge of the duties of a director or member of a committee of the board of directors is governed by the law applicable to directors of entities organized under Title 11A; and

(2) the liability of a director or member of a committee of the board of directors is governed by the law applicable to directors of entities organized under Title 11A.

§ 819. CONFLICT OF INTEREST

(a) The law applicable to conflicts of interest between a director of an entity organized under Title 11A governs conflicts of interest between a limited cooperative association and a director or member of a committee of the board of directors.

(b) A director does not have a conflict of interest under this title or the organic rules solely because the director's conduct relating to the duties of the director may further the director's own interest.

§ 820. OTHER CONSIDERATIONS OF DIRECTORS

Unless the articles of organization otherwise provide, in considering the best interests of a limited cooperative association, a director of the association in discharging the duties of director, in conjunction with considering the long and short term interest of the association and its patron members, may consider:

(1) the interest of employees, customers, and suppliers of the association;

(2) the interest of the community in which the association operates; and

(3) other cooperative principles and values that may be applied in the context of the decision.

§ 821. RIGHT OF DIRECTOR OR COMMITTEE MEMBER TO  
INFORMATION

A director or a member of a committee appointed under section 817 of this title may obtain, inspect, and copy all information regarding the state of activities and financial condition of the limited cooperative association and other information regarding the activities of the association if the information is reasonably related to the performance of the director's duties as director or the committee member's duties as a member of the committee. Information obtained in accordance with this section may not be used in any manner that would violate any duty of or to the association.

§ 822. APPOINTMENT AND AUTHORITY OF OFFICERS

(a) A limited cooperative association has the officers:

(1) provided in the organic rules; or

(2) established by the board of directors in a manner not inconsistent with the organic rules.

(b) The organic rules may designate or, if the rules do not designate, the board of directors shall designate, one of the association's officers for preparing all records required by section 114 of this title and for the authentication of records.

(c) Unless the organic rules otherwise provide, the board of directors shall appoint the officers of the limited cooperative association.

(d) Officers of a limited cooperative association shall perform the duties the organic rules prescribe or as authorized by the board of directors not in a manner inconsistent with the organic rules.

(e) The election or appointment of an officer of a limited cooperative association does not of itself create a contract between the association and the officer.

(f) Unless the organic rules otherwise provide, an individual may simultaneously hold more than one office in a limited cooperative association.

#### § 823. RESIGNATION AND REMOVAL OF OFFICERS

(a) The board of directors may remove an officer at any time with or without cause.

(b) An officer of a limited cooperative association may resign at any time by giving notice in a record to the association. Unless the notice specifies a later time, the resignation is effective when the notice is given.

### Article 9. Indemnification

#### § 901. INDEMNIFICATION

(a) Indemnification of an individual who has incurred liability or is a party, or is threatened to be made a party, to litigation because of the performance of a duty to, or activity on behalf of, a limited cooperative association is governed by Title 11A.



(b) A limited cooperative association may purchase and maintain insurance on behalf of any individual against liability asserted against or incurred by the individual to the same extent and subject to the same conditions as provided by Title 11A.

Article 10. Contributions, Allocations, and Distributions

§ 1001. MEMBERS' CONTRIBUTIONS

The organic rules must establish the amount, manner, or method of determining any contribution requirements for members or must authorize the board of directors to establish the amount, manner, or other method of determining any contribution requirements for members.

§ 1002. CONTRIBUTION AND VALUATION

(a) Unless the organic rules otherwise provide, the contributions of a member to a limited cooperative association may consist of tangible or intangible property or other benefit to the association, including money, labor or other services performed or to be performed, promissory notes, other agreements to contribute money or property, and contracts to be performed.

(b) The receipt and acceptance of contributions and the valuation of contributions must be reflected in a limited cooperative association's records.

(c) Unless the organic rules otherwise provide, the board of directors shall determine the value of a member's contributions received or to be received and the determination by the board of directors of valuation is conclusive for

purposes of determining whether the member's contribution obligation has been met.

§ 1003. CONTRIBUTION AGREEMENTS

(a) Except as otherwise provided in the agreement, the following rules apply to an agreement made by a person before formation of a limited cooperative association to make a contribution to the association:

(1) The agreement is irrevocable for six months after the agreement is signed by the person unless all parties to the agreement consent to the revocation.

(2) If a person does not make a required contribution:

(A) the person is obligated, at the option of the association, once formed, to contribute money equal to the value of that part of the contribution that has not been made, and the obligation may be enforced as a debt to the association; or

(B) the association, once formed, may rescind the agreement if the debt remains unpaid more than 20 days after the association demands payment from the person, and upon rescission the person has no further rights or obligations with respect to the association.

(b) Unless the organic rules or an agreement to make a contribution to a limited cooperative association otherwise provide, if a person does not make a required contribution to an association, the person or the person's estate is

obligated, at the option of the association, to contribute money equal to the value of the part of the contribution which has not been made.

§ 1004. ALLOCATIONS OF PROFITS AND LOSSES

(a) The organic rules may provide for allocating profits of a limited cooperative association among members, among persons that are not members but conduct business with the association, to an unallocated account, or to any combination thereof. Unless the organic rules otherwise provide, losses of the association must be allocated in the same proportion as profits.

(b) Unless the organic rules otherwise provide, all profits and losses of a limited cooperative association must be allocated to patron members.

(c) If a limited cooperative association has investor members, the organic rules may not reduce the allocation to patron members to less than 50 percent of profits. For purposes of this subsection, the following rules apply:

(1) amounts paid or due on contracts for the delivery to the association by patron members of products, goods, or services are not considered amounts allocated to patron members.

(2) amounts paid, due, or allocated to investor members as a stated fixed return on equity are not considered amounts allocated to investor members.

(d) Unless prohibited by the organic rules, in determining the profits for allocation under subsections (a), (b), and (c) of this section, the board of

directors may first deduct and set aside a part of the profits to create or accumulate:

(1) an unallocated capital reserve; and

(2) reasonable unallocated reserves for specific purposes, including expansion and replacement of capital assets; education, training, cooperative development; creation and distribution of information concerning principles of cooperation; and community responsibility.

(e) Subject to subsections (b) and (f) of this section and the organic rules, the board of directors shall allocate the amount remaining after any deduction or setting aside of profits for unallocated reserves under subsection (d) of this section:

(1) to patron members in the ratio of each member's patronage to the total patronage of all patron members during the period for which allocations are to be made; and

(2) to investor members, if any, in the ratio of each investor member's contributions to the total contributions of all investor members.

(f) For purposes of allocation of profits and losses or specific items of profits or losses of a limited cooperative association to members, the organic rules may establish allocation units or methods based on separate classes of members or, for patron members, on class, function, division, district,

department, allocation units, pooling arrangements, members' contributions, or other equitable methods.

§ 1005. DISTRIBUTIONS

(a) Unless the organic rules otherwise provide and subject to section 1007 of this title, the board of directors may authorize, and the limited cooperative association may make, distributions to members.

(b) Unless the organic rules otherwise provide, distributions to members may be made in any form, including money, capital credits, allocated patronage equities, revolving fund certificates, and the limited cooperative association's own or other securities.

§ 1006. REDEMPTION OR REPURCHASE

Property distributed to a member by a limited cooperative association, other than money, may be redeemed or repurchased as provided in the organic rules but a redemption or repurchase may not be made without authorization by the board of directors. The board may withhold authorization for any reason in its sole discretion. A redemption or repurchase is treated as a distribution for purposes of section 1007 of this title.

§ 1007. LIMITATIONS ON DISTRIBUTIONS

(a) A limited cooperative association may not make a distribution if, after the distribution:

(1) the association would not be able to pay its debts as they become due in the ordinary course of the association's activities; or

(2) the association's assets would be less than the sum of its total liabilities.

(b) A limited cooperative association may base a determination that a distribution is not prohibited under subsection (a) of this section on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(c) Except as otherwise provided in subsection (d) of this section, the effect of a distribution allowed under subsection (b) of this section is measured:

(1) in the case of distribution by purchase, redemption, or other acquisition of financial rights in the limited cooperative association, as of the date money or other property is transferred or debt is incurred by the association; and

(2) in all other cases, as of the date:

(A) the distribution is authorized, if the payment occurs not later than 120 days after that date; or

(B) the payment is made, if payment occurs more than 120 days after the distribution is authorized.

(d) If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.

(e) For purposes of this section, "distribution" does not include reasonable amounts paid to a member in the ordinary course of business as payment or compensation for commodities, goods, past or present services, or reasonable payments made in the ordinary course of business under a bona fide retirement or other benefits program.

§ 1008. LIABILITY FOR IMPROPER DISTRIBUTIONS; LIMITATION OF ACTION

(a) A director who consents to a distribution that violates section 1007 of this title is personally liable to the limited cooperative association for the amount of the distribution which exceeds the amount that could have been distributed without the violation if it is established that in consenting to the distribution the director failed to comply with section 818 or 819 of this title.

(b) A member or transferee of financial rights which received a distribution knowing that the distribution was made in violation of section 1007 of this title is personally liable to the limited cooperative association to the extent the distribution exceeded the amount that could have been properly paid.

(c) A director against whom an action is commenced under subsection (a) of this section may:

(1) implead in the action any other director who is liable under subsection (a) of this section and compel contribution from the person; and

(2) implead in the action any person that is liable under subsection (b) this section and compel contribution from the person in the amount the person received as described in subsection (b) of this section.

(d) An action under this section is barred if it is commenced later than two years after the distribution.

#### Article 11. Dissociation

##### § 1101. MEMBER'S DISSOCIATION

(a) A person has the power to dissociate as a member at any time, rightfully or wrongfully, by express will.

(b) Unless the organic rules otherwise provide, a member's dissociation from a limited cooperative association is wrongful only if the dissociation:

(1) breaches an express provision of the organic rules; or

(2) occurs before the termination of the limited cooperative association

and:

(A) the person is expelled as a member under subdivision (d)(3) or (4) of this section; or

(B) in the case of a person that is not an individual, trust other than a business trust, or estate, the person is expelled or otherwise dissociated as a member because it dissolved or terminated in bad faith.



(c) Unless the organic rules otherwise provide, a person that wrongfully dissociates as a member is liable to the limited cooperative association for damages caused by the dissociation. The liability is in addition to any other debt, obligation, or liability of the person to the association.

(d) A member is dissociated from the limited cooperative association as a member when:

(1) the association receives notice in a record of the member's express will to dissociate as a member, or if the member specifies in the notice an effective date later than the date the association received notice, on that later date;

(2) an event stated in the organic rules as causing the member's dissociation as a member occurs;

(3) the member is expelled as a member under the organic rules;

(4) the member is expelled as a member by the board of directors

because:

(A) it is unlawful to carry on the association's activities with the member as a member;

(B) there has been a transfer of all the member's financial rights in the association, other than:

(i) a creation or perfection of a security interest; or

(ii) a charging order in effect under section 605 of this title which has not been foreclosed;

(C) the member is a limited liability company, association, or partnership, which has been dissolved, and its business is being wound up; or

(D) the member is a corporation or cooperative and:

(i) the member filed a certificate of dissolution or the equivalent, or the jurisdiction of formation revoked the association's charter or right to conduct business;

(ii) the association sends a notice to the member that it will be expelled as a member for a reason described in subdivision (4)(D)(i) of this subsection; and

(iii) not later than 90 days after the notice was sent under subdivision (4)(D)(ii) of this subsection, the member did not revoke its certificate of dissolution or the equivalent, or the jurisdiction of formation did not reinstate the association's charter or right to conduct business; or

(E) the member is an individual and is adjudged incompetent;

(5) in the case of a member who is an individual, the individual dies;

(6) in the case of a member that is a trust or is acting as a member by virtue of being a trustee of a trust, all the trust's financial rights in the association are distributed;

(7) in the case of a member that is an estate, the estate's entire financial interest in the association is distributed;

(8) in the case of a member that is not an individual, partnership, limited liability company, cooperative, corporation, trust, or estate, the member is terminated; or

(9) the association's participation in a merger if, under the plan of merger as approved under Article 16 of this title, the member ceases to be a member.

§ 1102. EFFECT OF DISSOCIATION AS MEMBER

(a) Upon a member's dissociation:

(1) subject to section 1103 of this title, the person has no further rights as a member; and

(2) subject to section 1103 of this title and Article 16 of this title, any financial rights owned by the person in the person's capacity as a member immediately before dissociation are owned by the person as a transferee.

(b) A person's dissociation as a member does not of itself discharge the person from any debt, obligation, or liability to the limited cooperative association which the person incurred under the organic rules, by contract, or by other means while a member.

§ 1103. POWER OF ESTATE OF MEMBER

Unless the organic rules provide for greater rights, if a member is dissociated because of death, dies or is expelled by reason of being adjudged incompetent, the member's personal representative or other legal representative may exercise the rights of a transferee of the member's financial rights and, for purposes of settling the estate of a deceased member, may exercise the informational rights of a current member to obtain information under section 505 of this title.

Article 12. Dissolution

§ 1201. DISSOLUTION AND WINDING UP

A limited cooperative association is dissolved only as provided in this article and upon dissolution winds up in accordance with this article.

§ 1202. NONJUDICIAL DISSOLUTION

Except as otherwise provided in sections 1203 and 1211 of this title, a limited cooperative association is dissolved and its activities must be wound up:

(1) upon the occurrence of an event or at a time specified in the articles of organization;

(2) upon the action of the association's organizers, board of directors, or members under section 1204 or 1205 of this title; or

(3) 90 days after the dissociation of a member, which results in the association having one patron member and no other members, unless the association:

(A) has a sole member that is a cooperative; or

(B) not later than the end of the 90-day period, admits at least one member in accordance with the organic rules and has at least two members, at least one of which is a patron member.

#### § 1203. JUDICIAL DISSOLUTION

The superior court may dissolve a limited cooperative association or order any action that under the circumstances is appropriate and equitable:

(1) in a proceeding initiated by the attorney general, if:

(A) the association obtained its articles of organization through fraud;

or

(B) the association has continued to exceed or abuse the authority conferred upon it by law; or

(2) in a proceeding initiated by a member, if:

(A) the directors are deadlocked in the management of the association's affairs, the members are unable to break the deadlock, and irreparable injury to the association is occurring or is threatened because of the deadlock;

(B) the directors or those in control of the association have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(C) the members are deadlocked in voting power and have failed to elect successors to directors whose terms have expired for two consecutive periods during which annual members' meetings were held or were to be held;  
or

(D) the assets of the association are being misapplied or wasted.

§ 1204. VOLUNTARY DISSOLUTION BEFORE COMMENCEMENT OF  
ACTIVITY

A majority of the organizers or initial directors of a limited cooperative association that has not yet begun business activity or the conduct of its affairs may dissolve the association.

§ 1205. VOLUNTARY DISSOLUTION BY THE BOARD AND MEMBERS

(a) Except as otherwise provided in section 1204 of this title, for a limited cooperative association to voluntarily dissolve:

(1) a resolution to dissolve must be approved by a majority vote of the board of directors unless a greater percentage is required by the organic rules;

(2) the board of directors must call a members meeting to consider the resolution, to be held not later than 90 days after adoption of the resolution;

and

(3) the board of directors must mail or otherwise transmit or deliver to

each member in a record that complies with section 508 of this title:

(A) the resolution required by subdivision (1) of this subsection;

(B) a recommendation that the members vote in favor of the resolution or, if the board determines that because of conflict of interest or other special circumstances it should not make a favorable recommendation, the basis of that determination; and

(C) notice of the members meeting, which must be given in the same manner as notice of a special meeting of members.

(b) Subject to subsection (c) of this section, a resolution to dissolve must be approved by:

(1) at least two-thirds of the voting power of members present at a members meeting called under subdivision (a)(2) of this section; and

(2) if the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage.

(c) The organic rules may require that the percentage of votes under subdivision (b)(1) of this section is:

(1) a different percentage that is not less than a majority of members voting at the meeting; or

(2) measured against the voting power of all members; or

(3) a combination of subdivisions (1) and (2) of this subsection.

§ 1206. WINDING UP

(a) A limited cooperative association continues after dissolution only for purposes of winding up its activities.

(b) In winding up a limited cooperative association's activities, the board of directors shall cause the association to:

(1) discharge its liabilities, settle and close its activities, and marshal and distribute its assets;

(2) preserve the association or its property as a going concern for no more than a reasonable time;

(3) prosecute and defend actions and proceedings;

(4) transfer association property; and

(5) perform other necessary acts.

(c) After dissolution and upon application of a limited cooperative association, a member, or a holder of financial rights, the superior court may order judicial supervision of the winding up of the association, including the appointment of a person to wind up the association's activities, if:

(1) after a reasonable time, the association has not wound up its activities; or

(2) the applicant establishes other good cause.

(d) If a person is appointed pursuant to subsection (c) of this section to wind up the activities of a limited cooperative association, the association shall



promptly deliver to the secretary of state for filing an amendment to the articles of organization to reflect the appointment.

§ 1207. DISTRIBUTION OF ASSETS IN WINDING UP LIMITED

COOPERATIVE ASSOCIATION

(a) In winding up a limited cooperative association's business, the association shall apply its assets to discharge its obligations to creditors, including members that are creditors. The association shall apply any remaining assets to pay in money the net amount distributable to members in accordance with their right to distributions under subsection (b) of this section.

(b) Unless the organic rules otherwise provide, in this subsection "financial interests" means the amounts recorded in the names of members in the records of a limited cooperative association at the time a distribution is made, including amounts paid to become a member, amounts allocated but not distributed to members, and amounts of distributions authorized but not yet paid to members. Unless the organic rules otherwise provide, each member is entitled to a distribution from the association of any remaining assets in the proportion of the member's financial interests to the total financial interests of the members after all other obligations are satisfied.

§ 1208. KNOWN CLAIMS AGAINST DISSOLVED LIMITED

COOPERATIVE ASSOCIATION

(a) Subject to subsection (d) of this section, a dissolved limited cooperative association may dispose of the known claims against it by following the procedure in subsections (b) and (c) of this section.

(b) A dissolved limited cooperative association may notify its known claimants of the dissolution in a record. The notice must:

(1) specify that a claim be in a record;

(2) specify the information required to be included in the claim;

(3) provide an address to which the claim must be sent;

(4) state the deadline for receipt of the claim, which may not be less than 120 days after the date the notice is received by the claimant; and

(5) state that the claim will be barred if not received by the deadline.

(c) A claim against a dissolved limited cooperative association is barred if the requirements of subsection (b) of this section are met, and:

(1) the association is not notified of the claimant's claim, in a record, by the deadline specified in the notice under subdivision (b)(4) of this section;

(2) in the case of a claim that is timely received but rejected by the association, the claimant does not commence an action to enforce the claim against the association within 90 days after receipt of the notice of the rejection; or

(3) if a claim is timely received but is neither accepted nor rejected by the association within 120 days after the deadline for receipt of claims, the claimant does not commence an action to enforce the claim against the association:

(A) after the 120-day period; and

(B) within 90 days after the 120-day period.

(d) This section does not apply to a claim based on an event occurring after the date of dissolution or a liability that is contingent on that date.

§ 1209. OTHER CLAIMS AGAINST DISSOLVED LIMITED

COOPERATIVE ASSOCIATION

(a) A dissolved limited cooperative association may publish notice of its dissolution and request persons having claims against the association to present them in accordance with the notice.

(b) A notice under subsection (a) of this section must:

(1) be published at least once in a newspaper of general circulation in the county in which the dissolved limited cooperative association's principal office is located or, if the association does not have a principal office in this state, in the county in which the association's designated office is or was last located;

(2) describe the information required to be contained in a claim and provide an address to which the claim is to be sent; and

(3) state that a claim against the association is barred unless an action to enforce the claim is commenced not later than three years after publication of the notice.

(c) If a dissolved limited cooperative association publishes a notice in accordance with subsection (b) of this section, the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim not later than three years after the first publication date of the notice:

(1) a claimant that is entitled to but did not receive notice in a record under section 1208 of this title; and

(2) a claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(d) A claim not barred under this section may be enforced:

(1) against a dissolved limited cooperative association, to the extent of its undistributed assets; or

(2) if the association's assets have been distributed in connection with winding up the association's activities against a member or holder of financial rights to the extent of that person's proportionate share of the claim or the association's assets distributed to the person in connection with the winding up, whichever is less. The person's total liability for all claims under this

paragraph shall not exceed the total amount of assets distributed to the person as part of the winding up of the association.

§ 1210. COURT PROCEEDING

(a) Upon application by a dissolved limited cooperative association that has published a notice under section 1209 of this title, the superior court in the county where the association's principal office is located or, if the association does not have a principal office in this state where its designated office in this state is located, may determine the amount and form of security to be provided for payment of claims against the association that are contingent, have not been made known to the association, or are based on an event occurring after the effective date of dissolution but that, based on the facts known to the association, are reasonably anticipated to arise after the effective date of dissolution.

(b) Not later than 10 days after filing an application under subsection (a) of this section, a dissolved limited cooperative association shall give notice of the proceeding to each known claimant holding a contingent claim.

(c) The court may appoint a representative in a proceeding brought under this section to represent all claimants whose identities are unknown. The dissolved limited cooperative association shall pay reasonable fees and expenses of the representative, including all reasonable attorney's and expert witness fees.

(d) Provision by the dissolved limited cooperative association for security in the amount and the form ordered by the court satisfies the association's obligations with respect to claims that are contingent, have not been made known to the association, or are based on an event occurring after the effective date of dissolution, and the claims may not be enforced against a member that received a distribution.

§ 1211. ADMINISTRATIVE DISSOLUTION

(a) The secretary of state may dissolve a limited cooperative association administratively if the association does not:

(1) pay, not later than 60 days after the due date, any fee, tax, or penalty due to the secretary of state under this title; or

(2) deliver not later than 60 days after the due date its annual report to the secretary of state.

(b) If the secretary of state determines that a ground exists for dissolving a limited cooperative association administratively, the secretary of state shall file a record of the determination and serve the association with a copy of the record.

(c) If, not later than 60 days after service of a copy of the secretary of state's determination under subsection (b) of this section, the association does not correct each ground for dissolution or demonstrate to the satisfaction of the secretary of state that each uncorrected ground determined by the secretary of

state does not exist, the secretary of state shall dissolve the association administratively by preparing and filing a declaration of dissolution which states the grounds for dissolution. The secretary of state shall serve the association with a copy of the declaration.

(d) A limited cooperative association that has been dissolved administratively continues its existence only for purposes of winding up its activities.

(e) The administrative dissolution of a limited cooperative association does not terminate the authority of its agent for service of process.

§ 1212. REINSTATEMENT FOLLOWING ADMINISTRATIVE  
DISSOLUTION

(a) A limited cooperative association that has been dissolved administratively may apply to the secretary of state for reinstatement not later than two years after the effective date of dissolution. The application must be delivered to the secretary of state for filing and state:

(1) the name of the association and the effective date of its administrative dissolution;

(2) that the grounds for dissolution either did not exist or have been eliminated; and

(3) that the association's name satisfies the requirements of section 111 of this title.

(b) If the secretary of state determines that an application contains the information required by subsection (a) of this section and that the information is correct, the secretary of state shall:

- (1) prepare a declaration of reinstatement;
- (2) file the original of the declaration; and
- (3) serve a copy of the declaration on the association.

(c) When reinstatement under this section becomes effective, it relates back to and takes effect as of the effective date of the administrative dissolution, and the limited cooperative association may resume or continue its activities as if the administrative dissolution had not occurred.

§ 1213. DENIAL OF REINSTATEMENT; APPEAL

(a) If the secretary of state denies a limited cooperative association's application for reinstatement following administrative dissolution, the secretary of state shall prepare and file a notice that explains the reason for denial and serve the association with a copy of the notice.

(b) Not later than 30 days after service of a notice of denial of reinstatement by the secretary of state, a limited cooperative association may appeal the denial by petitioning the superior court to set aside the dissolution. The petition must be served on the secretary of state and contain a copy of the secretary of state's declaration of dissolution, the association's application for reinstatement, and the secretary of state's notice of denial.



(c) The court may summarily order the secretary of state to reinstate the dissolved cooperative association or may take other action the court considers appropriate.

§ 1214. STATEMENT OF DISSOLUTION

(a) A limited cooperative association that has dissolved or is about to dissolve may deliver to the secretary of state for filing a statement of dissolution that states:

- (1) the name of the association;
- (2) the date the association dissolved or will dissolve; and
- (3) any other information the association considers relevant.

(b) A person has notice of a limited cooperative association's dissolution on the later of:

- (1) 90 days after a statement of dissolution is filed; or
- (2) the effective date stated in the statement of dissolution.

§ 1215. STATEMENT OF TERMINATION

(a) A dissolved limited cooperative association that has completed winding up may deliver to the secretary of state for filing a statement of termination that states:

- (1) the name of the association;
- (2) the date of filing of its initial articles of organization; and
- (3) that the association is terminated.

(b) The filing of a statement of termination does not itself terminate the limited cooperative association.

Article 13. Action By Member

§ 1301. DERIVATIVE ACTION

A member may maintain a derivative action to enforce a right of a limited cooperative association if:

(1) the member demands that the association bring an action to enforce the right; and

(2) any of the following occur:

(A) the association does not, within 90 days after the member makes the demand, agree to bring the action;

(B) the association notifies the member that it has rejected the demand;

(C) irreparable harm to the association would result by waiting 90 days after the member makes the demand; or

(D) the association agrees to bring an action demanded and fails to bring the action within a reasonable time.

§ 1302. PROPER PLAINTIFF

(a) A derivative action to enforce a right of a limited cooperative association may be maintained only by a person that:

(1) is a member or a dissociated member at the time the action is

commenced and:

(A) was a member when the conduct giving rise to the action

occurred; or

(B) whose status as a member devolved upon the person by operation of law or the organic rules from a person that was a member at the time of the conduct; and

(2) adequately represents the interests of the association.

(b) If the sole plaintiff in a derivative action dies while the action is pending, the court may permit another member who meets the requirements of subsection (a) of this section to be substituted as plaintiff.

§ 1303. PLEADING

In a derivative action to enforce a right of a limited cooperative association, the complaint must state:

(1) the date and content of the plaintiff's demand under subdivision 1301(1) of this title and the association's response;

(2) if 90 days have not expired since the demand, how irreparable harm to the association would result by waiting for the expiration of 90 days; and

(3) if the association agreed to bring an action demanded, that the action has not been brought within a reasonable time.

§ 1304. APPROVAL FOR DISCONTINUANCE OR SETTLEMENT

A derivative action to enforce a right of a limited cooperative association may not be discontinued or settled without the court's approval.

§ 1305. PROCEEDS AND EXPENSES

(a) Except as otherwise provided in subsection (b) of this section:

(1) any proceeds or other benefits of a derivative action to enforce a right of a limited cooperative association, whether by judgment, compromise, or settlement, belong to the association and not to the plaintiff; and

(2) if the plaintiff in the derivative action receives any proceeds, the plaintiff shall immediately remit them to the association.

(b) If a derivative action to enforce a right of a limited cooperative association is successful in whole or in part, the court may award the plaintiff reasonable expenses, including reasonable attorney's fees and costs, from the recovery of the association.

Article 14. Foreign Cooperatives

§ 1401. GOVERNING LAW

(a) The law of the state or other jurisdiction under which a foreign cooperative is organized governs relations among the members of the foreign cooperative and between the members and the foreign cooperative.

(b) A foreign cooperative may not be denied a certificate of authority because of any difference between the law of the jurisdiction under which the foreign cooperative is organized and the law of this state.

(c) A certificate of authority does not authorize a foreign cooperative to engage in any activity or exercise any power that a limited cooperative association may not engage in or exercise in this state.

§ 1402. APPLICATION FOR CERTIFICATE OF AUTHORITY

(a) A foreign cooperative may apply for a certificate of authority by delivering an application to the secretary of state for filing. The application must state:

(1) the name of the foreign cooperative and, if the name does not comply with section 111 of this title, an alternative name adopted pursuant to section 1405 of this title;

(2) the name of the state or other jurisdiction under whose law the foreign cooperative is organized;

(3) the street address and, if different, mailing address of the principal office and, if the law of the jurisdiction under which the foreign cooperative is organized requires the foreign cooperative to maintain another office in that jurisdiction, the street address and, if different, mailing address of the required office;

(4) the street address and, if different, mailing address of the foreign cooperative's designated office in this state, and the name of the foreign cooperative's agent for service of process at the designated office; and

(5) the name, street address and, if different, mailing address of each of the foreign cooperative's current directors and officers.

(b) A foreign cooperative shall deliver with a completed application under subsection (a) of this section a certificate of good standing or existence or a similar record signed by the secretary of state or other official having custody of the foreign cooperative's publicly filed records in the state or other jurisdiction under whose law the foreign cooperative is organized.

§ 1403. ACTIVITIES NOT CONSTITUTING TRANSACTING BUSINESS

(a) Activities of a foreign cooperative which do not constitute transacting business in this state under this article include:

(1) maintaining, defending, and settling an action or proceeding;

(2) holding meetings of the foreign cooperative's members or directors or carrying on any other activity concerning the foreign cooperative's internal affairs;

(3) maintaining accounts in financial institutions;

(4) maintaining offices or agencies for the transfer, exchange, and registration of the foreign cooperative's own securities or maintaining trustees or depositories with respect to those securities;

(5) selling through independent contractors;

(6) soliciting or obtaining orders, whether by mail or electronic means, through employees, agents, or otherwise, if the orders require acceptance outside this state before they become contracts;

(7) creating or acquiring indebtedness, mortgages, or security interests in real or personal property;

(8) securing or collecting debts or enforcing mortgages or other security interests in property securing the debts, and holding, protecting, and maintaining property so acquired;

(9) conducting an isolated transaction that is completed within 30 days and is not one in the course of similar transactions; and

(10) transacting business in interstate commerce.

(b) For purposes of this article, the ownership in this state of income-producing real property or tangible personal property, other than property excluded under subsection (a) of this section, constitutes transacting business in this state.

(c) This section does not apply in determining the contacts or activities that may subject a foreign cooperative to service of process, taxation, or regulation under the laws of this state other than this title.

§ 1404. ISSUANCE OF CERTIFICATE OF AUTHORITY

Unless the secretary of state determines that an application for a certificate of authority does not comply with the filing requirements of this title, the secretary of state, upon payment by the foreign cooperative of all filing fees, shall file the application, issue a certificate of authority, and send a copy of the filed certificate, together with a receipt for the fees, to the foreign cooperative or its representative.

§ 1405. NONCOMPLYING NAME OF FOREIGN COOPERATIVE

(a) A foreign cooperative whose name does not comply with section 111 of this title may not obtain a certificate of authority until it adopts, for the purpose of transacting business in this state, an alternative name that complies with section 111. A foreign cooperative that adopts an alternative name under this subsection and then obtains a certificate of authority with that name need not also comply with chapter 15 of Title 11. After obtaining a certificate of authority with an alternative name, a foreign cooperative's business in this state must be transacted under that name unless the foreign cooperative is authorized under chapter 15 of Title 11 to transact business in this state under another name.

(b) If a foreign cooperative authorized to transact business in this state changes its name to one that does not comply with section 111 of this title, it



may not thereafter transact business in this state until it complies with subsection (a) of this section and obtains an amended certificate of authority.

§ 1406. REVOCATION OF CERTIFICATE OF AUTHORITY

(a) A certificate of authority may be revoked by the secretary of state in the manner provided in subsection (b) of this section if the foreign cooperative does not:

(1) pay, not later than 60 days after the due date, any fee, tax, or penalty due to the secretary of state under this title;

(2) deliver, not later than 60 days after the due date, its annual report;

(3) appoint and maintain an agent for service of process; or

(4) deliver for filing a statement of change not later than 30 days after a change has occurred in the name of the agent or the address of the foreign cooperative's designated office.

(b) To revoke a certificate of authority, the secretary of state must file a notice of revocation and send a copy to the foreign cooperative's registered agent for service of process in this state or, if the foreign cooperative does not appoint and maintain an agent for service of process in this state, to the foreign cooperative's principal office. The notice must state:

(1) the revocation's effective date, which must be at least 60 days after the date the secretary of state sends the copy; and

(2) the foreign cooperative's noncompliance that is the reason for the revocation.

(c) The authority of a foreign cooperative to transact business in this state ceases on the effective date of the notice of revocation unless before that date the foreign cooperative cures each failure to comply stated in the notice. If the foreign cooperative cures the failures, the secretary of state shall so indicate on the filed notice.

§ 1407. CANCELLATION OF CERTIFICATE OF AUTHORITY; EFFECT  
OF FAILURE TO HAVE CERTIFICATE

(a) To cancel its certificate of authority, a foreign cooperative must deliver to the secretary of state for filing a notice of cancellation. The certificate is canceled when the notice becomes effective under section 203 of this title.

(b) A foreign cooperative transacting business in this state may not maintain an action or proceeding in this state unless it has a certificate of authority.

(c) The failure of a foreign cooperative to have a certificate of authority does not impair the validity of a contract or act of the foreign cooperative or prevent the foreign cooperative from defending an action or proceeding in this state.

(d) A member of a foreign cooperative is not liable for the obligations of the foreign cooperative solely by reason of the foreign cooperative's having transacted business in this state without a certificate of authority.

(e) If a foreign cooperative transacts business in this state without a certificate of authority or cancels its certificate, it appoints the secretary of state as its agent for service of process for an action arising out of the transaction of business in this state.

§ 1408. ACTION BY ATTORNEY GENERAL

The attorney general may maintain an action to restrain a foreign cooperative from transacting business in this state in violation of this article.

Article 15. Disposition of Assets

§ 1501. DISPOSITION OF ASSETS NOT REQUIRING MEMBER

APPROVAL

Unless the articles of organization otherwise provide, member approval under section 1502 of this title is not required for a limited cooperative association to:

(1) sell, lease, exchange, license, or otherwise dispose of all or any part of the assets of the association in the usual and regular course of business; or

(2) mortgage, pledge, dedicate to the repayment of indebtedness, or encumber in any way all or any part of the assets of the association whether or not in the usual and regular course of business.

§ 1502. MEMBER APPROVAL OF OTHER DISPOSITION OF ASSETS

A sale, lease, exchange, license, or other disposition of assets of a limited cooperative association, other than a disposition described in section 1501 of this title, requires approval of the association's members under sections 1503 and 1504 of this title if the disposition leaves the association without significant continuing business activity.

§ 1503. NOTICE AND ACTION ON DISPOSITION OF ASSETS

For a limited cooperative association to dispose of assets under section 1502 of this title:

(1) a majority of the board of directors, or a greater percentage if required by the organic rules, must approve the proposed disposition; and

(2) the board of directors must call a members meeting to consider the proposed disposition, hold the meeting not later than 90 days after approval of the proposed disposition by the board, and mail or otherwise transmit or deliver in a record to each member:

(A) the terms of the proposed disposition;

(B) a recommendation that the members approve the disposition, or if the board determines that because of conflict of interest or other special circumstances it should not make a favorable recommendation, the basis for that determination;

(C) a statement of any condition of the board's submission of the proposed disposition to the members; and

(D) notice of the meeting at which the proposed disposition will be considered, which must be given in the same manner as notice of a special meeting of members.

§ 1504. DISPOSITION OF ASSETS

(a) Subject to subsection (b) of this section, a disposition of assets under section 1502 of this title must be approved by:

(1) at least two-thirds of the voting power of members present at a members meeting called under subdivision 1503(2) of this title; and

(2) if the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage vote by patron members.

(b) The organic rules may require that the percentage of votes under subdivision (a)(1) of this title is:

(1) a different percentage that is not less than a majority of members voting at the meeting;

(2) measured against the voting power of all members; or

(3) a combination of subdivisions (1) and (2) of this subsection.

(c) Subject to any contractual obligations, after a disposition of assets is approved and at any time before the consummation of the disposition, a limited

cooperative association may approve an amendment to the contract for disposition or the resolution authorizing the disposition or approve abandonment of the disposition:

(1) as provided in the contract or the resolution; and

(2) except as prohibited by the resolution, with the same affirmative vote of the board of directors and of the members as was required to approve the disposition.

(d) The voting requirements for districts, classes, or voting groups under section 404 of this title apply to approval of a disposition of assets under this article.

#### Article 16. Conversion and Merger

##### § 1601. DEFINITIONS

In this article:

(1) “Constituent entity” means an entity that is a party to a merger.

(2) “Constituent limited cooperative association” means a limited cooperative association that is a party to a merger.

(3) “Converted entity” means the organization into which a converting entity converts pursuant to sections 1602 through 1605 of this title.

(4) “Converting entity” means an entity that converts into another entity pursuant to sections 1602 through 1605 of this title.

(5) “Converting limited cooperative association” means a converting entity that is a limited cooperative association.

(6) “Organizational documents” means articles of incorporation, bylaws, articles of organization, operating agreements, partnership agreements, or other documents serving a similar function in the creation and governance of an entity.

(7) “Personal liability” means personal liability for a debt, liability, or other obligation of an entity imposed, by operation of law or otherwise, on a person that co-owns or has an interest in the entity:

(A) by the entity’s organic law solely because of the person co-owning or having an interest in the entity; or

(B) by the entity’s organizational documents under a provision of the entity’s organic law authorizing those documents to make one or more specified persons liable for all or specified parts of the entity’s debts, liabilities, and other obligations solely because the person co-owns or has an interest in the entity.

(8) “Surviving entity” means an entity into which one or more other entities are merged, whether the entity existed before the merger or is created by the merger.

§ 1602. CONVERSION

(a) An entity that is not a limited cooperative association may convert to a limited cooperative association and a limited cooperative association may convert to an entity that is not a limited cooperative association pursuant to this section, sections 1603 through 1605 of this title, and a plan of conversion, if:

(1) the other entity's organic law authorizes the conversion;

(2) the conversion is not prohibited by the law of the jurisdiction that enacted the other entity's organic law; and

(3) the other entity complies with its organic law in effecting the conversion.

(b) A plan of conversion must be in a record and must include:

(1) the name and form of the entity before conversion;

(2) the name and form of the entity after conversion;

(3) the terms and conditions of the conversion, including the manner and basis for converting interests in the converting entity into any combination of money, interests in the converted entity, and other consideration; and

(4) the organizational documents of the proposed converted entity.

§ 1603. ACTION ON PLAN OF CONVERSION BY CONVERTING

LIMITED COOPERATIVE ASSOCIATION

(a) For a limited cooperative association to convert to another entity, a plan of conversion must be approved by a majority of the board of directors, or a



greater percentage if required by the organic rules, and the board of directors must call a members meeting to consider the plan of conversion, hold the meeting not later than 90 days after approval of the plan by the board, and mail or otherwise transmit or deliver in a record to each member:

(1) the plan, or a summary of the plan and a statement of the manner in which a copy of the plan in a record may be reasonably obtained by a member;

(2) a recommendation that the members approve the plan of conversion, or if the board determines that because of a conflict of interest or other circumstances it should not make a favorable recommendation, the basis for that determination;

(3) a statement of any condition of the board's submission of the plan of conversion to the members; and

(4) notice of the meeting at which the plan of conversion will be considered, which must be given in the same manner as notice of a special meeting of members.

(b) Subject to subsections (c) and (d) of this section, a plan of conversion must be approved by:

(1) at least two-thirds of the voting power of members present at a members meeting called under subsection (a) of this section; and

(2) if the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage vote by patron members.

(c) The organic rules may require that the percentage of votes under subdivision (b)(1) of this section is:

(1) a different percentage that is not less than a majority of members voting at the meeting;

(2) measured against the voting power of all members; or

(3) a combination of subdivisions (1) and (2) of this subsection.

(d) The vote required to approve a plan of conversion may not be less than the vote required for the members of the limited cooperative association to amend the articles of organization.

(e) Consent in a record to a plan of conversion by a member must be delivered to the limited cooperative association before delivery of articles of conversion for filing if as a result of the conversion the member will have:

(1) personal liability for an obligation of the association; or

(2) an obligation or liability for an additional contribution.

(f) Subject to subsection (e) of this section and any contractual rights, after a conversion is approved and at any time before the effective date of the conversion, a converting limited cooperative association may amend a plan of conversion or abandon the planned conversion:

(1) as provided in the plan; and

(2) except as prohibited by the plan, by the same affirmative vote of the board of directors and of the members as was required to approve the plan.

(g) The voting requirements for districts, classes, or voting groups under section 404 of this title apply to approval of a conversion under this article.

§ 1604. FILINGS REQUIRED FOR CONVERSION; EFFECTIVE DATE

(a) After a plan of conversion is approved:

(1) a converting limited cooperative association shall deliver to the secretary of state for filing articles of conversion, which must include:

(A) a statement that the limited cooperative association has been converted into another entity;

(B) the name and form of the converted entity and the jurisdiction of its governing statute;

(C) the date the conversion is effective under the governing statute of the converted entity;

(D) a statement that the conversion was approved as required by this title;

(E) a statement that the conversion was approved as required by the governing statute of the converted entity; and

(F) if the converted entity is an entity organized in a jurisdiction other than this state and is not authorized to transact business in this state, the street

address and, if different, mailing address of an office which the secretary of state may use for purposes of section 120 of this title; and

(2) if the converting entity is not a converting limited cooperative association, the converting entity shall deliver to the secretary of state for filing articles of organization, which must include, in addition to the information required by section 302 of this title:

(A) a statement that the association was converted from another entity;

(B) the name and form of the converting entity and the jurisdiction of its governing statute; and

(C) a statement that the conversion was approved in a manner that complied with the converting entity's governing statute.

(b) A conversion becomes effective:

(1) if the converted entity is a limited cooperative association, when the articles of conversion take effect pursuant to subsection 203(c) of this title; or

(2) if the converted entity is not a limited cooperative association, as provided by the governing statute of the converted entity.

#### § 1605. EFFECT OF CONVERSION

(a) An entity that has been converted pursuant to this article is for all purposes the same entity that existed before the conversion and is not a new entity but, after conversion, is organized under the organic law of the

converted entity and is subject to that law and other law as it applies to the converted entity.

(b) When a conversion takes effect under this article:

(1) all property owned by the converting entity remains vested in the converted entity;

(2) all debts, liabilities, and other obligations of the converting entity continue as obligations of the converted entity;

(3) an action or proceeding pending by or against the converting entity may be continued as if the conversion had not occurred;

(4) except as prohibited by other law, all the rights, privileges, immunities, powers, and purposes of the converting entity remain vested in the converted entity;

(5) except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect; and

(6) except as otherwise provided in the plan of conversion, the conversion does not dissolve a converting limited cooperative association for purposes of Article 12 of this title.

(c) A converted entity that is an entity organized under the laws of a jurisdiction other than this state consents to the jurisdiction of the courts of this state to enforce any obligation owed by the converting limited cooperative association if, before the conversion, the converting limited cooperative

association was subject to suit in this state on the obligation. A converted entity that is an entity organized under the laws of a jurisdiction other than this state and not authorized to transact business in this state appoints the secretary of state as its agent for service of process for purposes of enforcing an obligation under this subsection. Service on the secretary of state under this subsection is made in the same manner and with the same consequences as under subsections 120(c) and (d) of this title.

§ 1606. MERGER

(a) One or more limited cooperative associations may merge with one or more other entities pursuant to this article and a plan of merger if:

(1) the governing statute of each of the other entities authorizes the merger;

(2) the merger is not prohibited by the law of a jurisdiction that enacted any of those governing statutes; and

(3) each of the other entities complies with its governing statute in effecting the merger.

(b) A plan of merger must be in a record and must include:

(1) the name and form of each constituent entity;

(2) the name and form of the surviving entity and, if the surviving entity is to be created by the merger, a statement to that effect;

(3) the terms and conditions of the merger, including the manner and basis for converting the interests in each constituent entity into any combination of money, interests in the surviving entity, and other consideration;

(4) if the surviving entity is to be created by the merger, the surviving entity's organizational documents;

(5) if the surviving entity is not to be created by the merger, any amendments to be made by the merger to the surviving entity's organizational documents; and

(6) if a member of a constituent limited cooperative association will have personal liability with respect to a surviving entity, the identity of the member by descriptive class or other reasonable manner.

§ 1607. NOTICE AND ACTION ON PLAN OF MERGER BY

CONSTITUENT LIMITED COOPERATIVE ASSOCIATION

(a) For a limited cooperative association to merge with another entity, a plan of merger must be approved by a majority vote of the board of directors or a greater percentage if required by the association's organic rules.

(b) The board of directors shall call a members meeting to consider a plan of merger approved by the board, hold the meeting not later than 90 days after approval of the plan by the board, and mail or otherwise transmit or deliver in a record to each member:

(1) the plan of merger, or a summary of the plan and a statement of the manner in which a copy of the plan in a record may be reasonably obtained by a member;

(2) a recommendation that the members approve the plan of merger, or if the board determines that because of conflict of interest or other special circumstances it should not make a favorable recommendation, the basis for that determination;

(3) a statement of any condition of the board's submission of the plan of merger to the members; and

(4) notice of the meeting at which the plan of merger will be considered, which must be given in the same manner as notice of a special meeting of members.

§ 1608. APPROVAL OR ABANDONMENT OF MERGER BY MEMBERS

(a) Subject to subsections (b) and (c) of this section, a plan of merger must be approved by:

(1) at least two-thirds of the voting power of members present at a members meeting called under subsection 1607(b) of this title; and

(2) if the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage vote by patron members.



(b) The organic rules may provide that the percentage of votes under subdivision (a)(1) of this section is:

(1) a different percentage that is not less than a majority of members voting at the meeting;

(2) measured against the voting power of all members; or

(3) a combination of subdivisions (1) and (2) of this subsection.

(c) The vote required to approve a plan of merger may not be less than the vote required for the members of the limited cooperative association to amend the articles of organization.

(d) Consent in a record to a plan of merger by a member must be delivered to the limited cooperative association before delivery of articles of merger for filing pursuant to section 1609 of this title if as a result of the merger the member will have:

(1) personal liability for an obligation of the association; or

(2) an obligation or liability for an additional contribution.

(e) Subject to subsection (d) of this section and any contractual rights, after a merger is approved, and at any time before the effective date of the merger, a limited cooperative association that is a party to the merger may approve an amendment to the plan of merger or approve abandonment of the planned merger:

(1) as provided in the plan; and

(2) except as prohibited by the plan, with the same affirmative vote of the board of directors and of the members as was required to approve the plan.

(f) The voting requirements for districts, classes, or voting groups under section 404 of this title apply to approval of a merger under this article.

§ 1609. FILINGS REQUIRED FOR MERGER; EFFECTIVE DATE

(a) After each constituent entity has approved a merger, articles of merger must be signed on behalf of each constituent entity by an authorized representative.

(b) The articles of merger must include:

(1) the name and form of each constituent entity and the jurisdiction of its governing statute;

(2) the name and form of the surviving entity, the jurisdiction of its governing statute, and, if the surviving entity is created by the merger, a statement to that effect;

(3) the date the merger is effective under the governing statute of the surviving entity;

(4) if the surviving entity is to be created by the merger and:

(A) will be a limited cooperative association, the limited cooperative association's articles of organization; or

(B) will be an entity other than a limited cooperative association, the organizational document that creates the entity;

(5) if the surviving entity is not created by the merger, any amendments provided for in the plan of merger to the organizational document that created the entity;

(6) a statement as to each constituent entity that the merger was approved as required by the entity's governing statute;

(7) if the surviving entity is a foreign organization not authorized to transact business in this state, the street address and, if different, mailing address of an office which the secretary of state may use for the purposes of section 120 of this title; and

(8) any additional information required by the governing statute of any constituent entity.

(c) Each limited cooperative association that is a party to a merger shall deliver the articles of merger to the secretary of state for filing.

(d) A merger becomes effective under this article:

(1) if the surviving entity is a limited cooperative association, upon the later of:

(A) compliance with subsection (c) of this section; or

(B) subject to subsection 203(c) of this title, as specified in the articles of merger; or

(2) if the surviving entity is not a limited cooperative association, as provided by the governing statute of the surviving entity.

§ 1610. EFFECT OF MERGER

(a) When a merger becomes effective:

(1) the surviving entity continues or comes into existence;

(2) each constituent entity that merges into the surviving entity ceases to exist as a separate entity;

(3) all property owned by each constituent entity that ceases to exist vests in the surviving entity;

(4) all debts, liabilities, and other obligations of each constituent entity that ceases to exist continue as obligations of the surviving entity;

(5) an action or proceeding pending by or against any constituent entity that ceases to exist may be continued as if the merger had not occurred;

(6) except as prohibited by law other than this title, all rights, privileges, immunities, powers, and purposes of each constituent entity that ceases to exist vest in the surviving entity;

(7) except as otherwise provided in the plan of merger, the terms and conditions of the plan take effect;

(8) except as otherwise provided in the plan of merger, if a merging limited cooperative association ceases to exist, the merger does not dissolve the association for purposes of Article 12 of this title;

(9) if the surviving entity is created by the merger and:

(A) is a limited cooperative association, the articles of organization become effective; or

(B) is an entity other than a limited cooperative association, the organizational document that creates the entity becomes effective; and

(10) if the surviving entity is not created by the merger, any amendments made by the articles of merger for the organizational documents of the surviving entity become effective.

(b) A surviving entity that is an entity organized under the laws of a jurisdiction other than this state consents to the jurisdiction of the courts of this state to enforce any obligation owed by the constituent entity if, before the merger, the constituent entity was subject to suit in this state on the obligation. A surviving entity that is an entity organized under the laws of a jurisdiction other than this state and not authorized to transact business in this state appoints the secretary of state as its agent for service of process for purposes of enforcing an obligation under this subsection. Service on the secretary of state under this subsection is made in the same manner and with the same consequences as in subsections 120(c) and (d) of this title.

#### § 1611. CONSOLIDATION

(a) Constituent entities that are limited cooperative associations or foreign cooperatives may agree to call a merger a consolidation under this article.

(b) All provisions governing mergers or using the term merger in this title apply equally to mergers that the constituent entities choose to call consolidations under subsection (a) of this section.

§ 1612. ARTICLE NOT EXCLUSIVE

This article does not prohibit a limited cooperative association from being converted or merged under law other than this title.

Article 17. Miscellaneous Provisions

§ 1701. UNIFORMITY OF APPLICATION AND CONSTRUCTION

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 1702. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

This title modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c) or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

§ 1703. SAVINGS CLAUSE

This title does not affect an action or proceeding commenced, or right accrued, before the effective date.

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§ 1704. EFFECTIVE DATE

This title takes effect upon passage.