

D R A F T

FOR DISCUSSION ONLY

**HARMONIZED UNIFORM LIMITED COOPERATIVE
ASSOCIATION ACT (1997)**
(Amendments to Uniform Limited Cooperative Association Act)

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

For January 28-30, 2011 Drafting Committee Meeting
on Harmonization of Business Entity Acts

Strike and Score Version

Without Prefatory Note and with Reporters' Notes

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ON UNIFORM STATE LAWS

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January 19, 2011

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HARMONIZED UNIFORM LIMITED COOPERATIVE ASSOCIATION ACT

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Introductory Reporters' Note

The proposed revisions to the text of the act set forth in this document have been prepared as part of a project that has two purposes: (i) to harmonize the language of all of the unincorporated entity laws, and (ii) to revise the language of each of those acts in a manner that permits their integration into a single code of entity laws.

The Reporters' Notes in this document are limited to explaining the source of certain of the proposed changes. Following the approval of the changes in this document by the Conference, the Reporters' Notes will be replaced with more usual comments that explain the provisions of the act.

The harmonization process has involved the revision of the following acts, some of which are referred to in the Reporters' Notes by the abbreviations listed below:

HUB	Business Organizations Act
META	Model Entity Transactions Act
MORAA	Model Registered Agents Act
UPA	Uniform Partnership Act (1997)
ULPA	Uniform Limited Partnership Act (2001)
ULLCA	Uniform Limited Liability Company Act (2006)
USTEA	Uniform Statutory Trust Entity Act
Coop Act	Uniform Limited Cooperative Association Act
UUNAA	Uniform Unincorporated Nonprofit Association Act (2008)

Changes to the currently effective text of the act are shown by ~~striking through text to be deleted~~ and underlining text to be added. Black type is used to show changes that adopt language from the HUB, META, or MORAA, or are merely relocations of current language or corrections to cross references. Changes that adopt language from other unincorporated entity laws are shown in blue type. Changes that do not have a source in one of the existing unincorporated entity laws are shown in red type.

1 **UNIFORM LIMITED COOPERATIVE ASSOCIATION ACT**
2

3 **[ARTICLE] 1**

4 **GENERAL PROVISIONS**

5
6 **SECTION 101. SHORT TITLE.** This [act] may be cited as the Uniform Limited
7 Cooperative Association Act.

8 **SECTION 102. DEFINITIONS.** In this [~~act~~article]:

9 (1) “Articles of organization” means the articles of organization of a limited cooperative
10 association required by Section 302. The term includes the articles as amended or restated.

11 (2) “Board of directors” means the board of directors of a limited cooperative association.

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

14 ~~(4) “Certificate of authority” means a certificate issued by the [Secretary of State] for a~~
15 ~~foreign cooperative to transact business in this state.~~

16 ~~(5)~~ (4) “Contribution,” except as used in Section 1008(c), means any benefit ~~that a person~~
17 ~~provides~~provided by a person to a limited cooperative association to become or remain a member
18 or in the person’s capacity as a member.

19 ~~(6)~~ (5) “Cooperative” means a limited cooperative association or an entity organized
20 under any cooperative law of any jurisdiction.

21 ~~(7) “Designated office” means the office that a limited cooperative association or a foreign~~
22 ~~cooperative is required to designate and maintain under Section 117(a)(1).~~

23 ~~(8)~~ (6) “Director” means a director of a limited cooperative association.

24 ~~(9)~~ (7) “Distribution,” except as used in Section 1007(e), means a transfer of money or

1 other property from a limited cooperative association to a member because of the member's
2 financial rights or to a transferee of a member's financial rights.

3 ~~(40)~~ (8) "Entity" means a person other than an individual.

4 ~~(41)~~ (9) "Financial rights" means the right to participate in allocations and distributions as
5 provided in [Articles] 10 and 12 but does not include rights or obligations under a marketing
6 contract governed by [Article] 7.

7 ~~(42)~~ (10) "Foreign cooperative" means an entity organized in a jurisdiction other than this
8 state under a law similar to this [act].

9 ~~(43)~~ (11) "Governance rights" means the right to participate in governance of a limited
10 cooperative association.

11 ~~(44)~~ (12) "Investor member" means a member that has made a contribution to a limited
12 cooperative association and

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

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

17 ~~(45)~~ (13) "Limited cooperative association" means an association organized under this
18 [act].

19 ~~(46)~~ (14) "Member" means a person that is admitted as a patron member or investor
20 member, or both, in a limited cooperative association. The term does not include a person that has
21 dissociated as a member.

22 ~~(47)~~ (15) "Member's interest" means the interest of a patron member or investor member
23 under Section 601.

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

(19) (17) “Organic law” means the ~~statute providing for the creation~~ law of an ~~entity or~~ principally entity’s jurisdiction of formation governing ~~its~~ the internal affairs of the entity.

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

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

(22) (20) “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) (21) “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) (22) “Person” means an individual, business corporation, nonprofit corporation, ~~corporation, business trust, cooperative, estate, trust, partnership, limited partnership, limited liability company, [general cooperative association,]~~ limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, or common law business trust, estate, trust, association, joint venture, association, ~~public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.~~

(25) (23) “Principal office” means the principal executive office of a limited cooperative

1 association or foreign cooperative, whether or not the office is located in this state.

2 ~~(26)~~ (24) “Record”, used as a noun, means information that is inscribed on a tangible
3 medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

4 (25) “Registered foreign cooperative” means a foreign cooperative that is registered to do
5 business in this state.

6 (26) “Registered agent” means an agent of limited cooperative association or foreign
7 cooperative which is authorized to receive service of process, notice, or demand required or
8 permitted by law to be served on the association of foreign cooperative.

9 (27) “Required information” means the information a limited cooperative association is
10 required to maintain under Section 114.

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

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

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

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

18 (30) “Transfer” includes an assignment, conveyance, ~~deed, bill of sale, lease, mortgage,~~
19 ~~security interest, encumbrance, including by mortgaging or granting a security interest,~~ gift, and
20 transfer by operation of law.

21 (31) “Voting group” means any combination of one or more voting members in one or
22 more districts or classes that under the organic rules or this [act] are entitled to vote and can be
23 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.

SECTION 103. LIMITED COOPERATIVE ASSOCIATION SUBJECT TO AMENDMENT OR REPEAL OF [ACT] RESERVATION OF POWER TO AMEND OR REPEAL. ~~A limited cooperative association governed by this [act] is subject to any amendment or repeal of this [act]~~ The [legislature of the state] has power to amend or repeal all or part of this [act] at any time, and all domestic and foreign entities subject to this [act] are governed by the amendment or repeal.

SECTION 104. NATURE OF LIMITED COOPERATIVE ASSOCIATION.

(a) A limited cooperative association organized under this [act] 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) does not alone prevent the association from being formed under and governed by this [act] nor does it alone provide a basis for an action against the association.

1 **SECTION 105. PURPOSE AND DURATION OF LIMITED COOPERATIVE**
2 **ASSOCIATION.**

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

4 (b) A limited cooperative association may ~~be organized for~~have any lawful purpose,
5 regardless of whether or not for profit [except designated prohibited purposes].

6 (c) Unless the articles of organization state a term for a limited cooperative association's
7 existence, the association has perpetual duration.

8 **SECTION 106. POWERS.** A limited cooperative association may sue and be sued in its
9 own name and do all things necessary or convenient to carry on its activities. An association may
10 maintain an action against a member for harm caused to the association by the member's violation
11 of a duty to the association or of the organic law or organic rules.

12 **SECTION 107. GOVERNING LAW.** The law of this state governs:

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

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

16 **SECTION 108. SUPPLEMENTAL PRINCIPLES OF LAW.** Unless displaced by
17 particular provisions of this [act], the principles of law and equity supplement this [act].

18 **SECTION 109. REQUIREMENTS OF OTHER LAWS.**

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

23 (b) A limited cooperative association may not conduct an activity that, under law of this

1 state other than this [act], may be conducted only by an entity that meets specific requirements for
2 the internal affairs of that entity unless the organic rules of the association conform to those
3 requirements.

4 [(c) If an activity of a limited cooperative association is within the scope of [reference to
5 the Uniform Common Interest Ownership Act or to the Model Real Estate Cooperative Act], the
6 requirements of [reference to the Uniform Common Interest Ownership Act or to the Model Real
7 Estate Cooperative Act] apply, even if there is a conflicting provision in this [act].]

8 **[SECTION 110. RELATION TO RESTRAINT OF TRADE AND ANTITRUST**

9 **LAWS.** To the extent a limited cooperative association or activities conducted by the association
10 in this state meet the material requirements for other cooperatives entitled to an exemption from
11 or immunity under any provision of [the restraint of trade or antitrust laws of this state], the
12 association and its activities are entitled to the exemption or immunity. This section does not
13 create any new exemption or immunity for an association or affect any exemption or immunity
14 provided to a cooperative organized under any other [law].]

15 **SECTION 111. NAME.**

16 [(a) Use of the term “cooperative” or its abbreviation under this [act] is not a violation of
17 the provisions restricting the use of the term under [insert cross-reference to law of this state].]

18 [(a)][(b)] The name of a limited cooperative association must contain the words “limited
19 cooperative association” or “limited cooperative” or the abbreviation “L.C.A.” or “LCA”.

20 “Limited” may be abbreviated as “Ltd.”. “Cooperative” may be abbreviated as “Co-op” or

21 “Coop”. “Association” may be abbreviated as “Assoc.” or “Assn.”. [[A limited cooperative

22 association or a member may enforce the restrictions on the use of the term “cooperative” under

23 this [act].] [or] [A limited cooperative association or a member may enforce the restrictions on the

1 use of the term “cooperative” [insert cross-reference to other laws of this state].]]

2 [(b)][(c)] Except as otherwise provided in subsection (d), a limited cooperative association
3 may use only a name that is available. A name is available if it is distinguishable in the records of
4 the [Secretary of State] from any:

5 (1) ~~the name of any entity~~a person that is incorporated, organized or
6 ~~authorized~~registered to ~~transact~~do business in this state;

7 (2) ~~a name reserved under Section 112; and~~

8 (3) ~~an alternative name approved for~~under which a foreign cooperative
9 ~~authorized or foreign entity is registered~~ to ~~transact~~do business in this state; and

10 (4) assumed name registered under [the state’s assumed name statute].

11 [(c)][(d)] ~~A limited cooperative association may apply to the [Secretary of State] for~~
12 ~~authorization to use a name that is not available. The [Secretary of State] shall authorize use of~~
13 ~~the name if:~~

14 (1) ~~the person with ownership rights to use the name consents in a record to the use~~
15 ~~and applies in a form satisfactory to the [Secretary of State] to change the name used or reserved~~
16 ~~to a name that is distinguishable upon the records of the [Secretary of State] from the name~~
17 ~~applied for; or~~

18 (2) ~~the applicant delivers to the [Secretary of State] a certified copy of the final~~
19 ~~judgment of a court establishing the applicant’s right to use the name in this state.~~

20 [(c)] [(d)] Subsection [(b)] [(c)] does not apply if the other entity or the person for which
21 the name is reserved consents in a record to the use of the name and submits an undertaking in a
22 form satisfactory to the [Secretary of State] to change its name to a name that is distinguishable
23 on the records of the [Secretary of State] from any name in any category of names in subsection

1 [(a)] [(b)].

2 [(d)] [(e)] Except as otherwise provided in subsection [(e)] [(f)], in determining whether a
3 name is the same as or not distinguishable on the records of the [Secretary of State] from the
4 name of another entity, words, phrases, or abbreviations indicating the type of entity, such as
5 “corporation”, “corp.”, “incorporated”, “Inc.”, “professional corporation”, “PC”, “professional
6 association”, “PA”, “Limited”, “Ltd.”, “limited partnership”, “limited liability partnership”,
7 “LLP”, “registered limited liability partnership”, “RLLP”, “limited liability limited partnership”,
8 “LLLLP”, “registered limited liability limited partnership”, “RLLLLP”, “limited liability company”,
9 or “LLC”, may not be taken into account.

10 [(e)] [(f)] The holder of a name under subsection [(b)] [(c)] may consent in a record to the
11 use of a name that is not distinguishable on the records of the [Secretary of State] from its name
12 except for the addition of a word, phrase, or abbreviation indicating the type of entity described in
13 subsection [(d)] [(e)]. In such a case, the holder need not change its name pursuant to subsection
14 [(b)] [(c)].

15 [(f)] [(g)] The name of a limited cooperative association may not contain the words [insert
16 prohibited words or words that may be used only with approval by the appropriate state agency].

17 [(g)] [(h)] Subject to Section 1405, this section applies to a foreign limited cooperative
18 association doing business in this state that is registered to do business in this state.

19 **SECTION 112. RESERVATION OF NAME.**

20 (a) A person may reserve the exclusive use of ~~the~~a name ~~off~~or for a limited cooperative
21 association, including a fictitious or assumed name for a foreign cooperative whose name is not
22 available under Section 111, by delivering an application to the [Secretary of State] for filing. The
23 application must set forth the name and address of the applicant and the name proposed to be

1 reserved. If the [Secretary of State] finds that the name applied for is available under Section 111,
2 the [Secretary of State] shall reserve the name for the applicant's exclusive use for a
3 ~~nonrenewable~~ period of 120 days.

4 (b) ~~A person that has~~ The owner of a name reserved ~~a name~~ for a limited cooperative
5 association may transfer the reservation to another person by delivering to the [Secretary of State]
6 a signed notice in a record of the transfer which states the name, ~~street address, and, if different,~~
7 ~~the mailing~~ address of the transferee. If the ~~person~~ owner is an organizer of the association and the
8 name of the association is the same as the reserved name, the delivery of articles of organization
9 for filing {by the [Secretary of State] is a transfer by the ~~person~~ owner to the association.

10 **SECTION 113. EFFECT OF ORGANIC RULES.**

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

15 (b) The matters referred to in paragraphs (1) through [(9)] [(11)] may be varied only in the
16 articles of organization. The articles may:

17 (1) state a term of existence for the association under Section 105(c);

18 (2) limit or eliminate the acceptance of new or additional members by the initial
19 board of directors under Section 303(b);

20 (3) vary the limitations on the obligations and liability of members for association
21 obligations under Section 504;

22 (4) require a notice of an annual members meeting to state a purpose of the
23 meeting under Section 508(b);

(5) vary the board of directors meeting quorum under Section 815(a);

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

(7) specify causes of dissolution under Section 1202(1);

(8) delegate amendment of the bylaws to the board of directors pursuant to Section 405(f);

(9) provide for member approval of asset dispositions under Section 1501; [and]

[[10]] subject to Section 820, provide for the elimination or limitation of liability of a director to the association or its members for money damages pursuant to Section 818;

[[11]] provide for permitting or making obligatory indemnification under Section 901(a); and]

[[10]] [[12]] provide for any matters that may be contained in the organic rules, including those under subsection (c).

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

(1) require more information to be maintained under Section 114 or provided to members under Section 505(k);

(2) provide restrictions on transactions between a member and an association under Section 115;

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

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

- 1 (5) provide for terms and conditions to become a member under Section 502;
- 2 (6) restrict the manner of conducting members meetings under Sections 506(c) and
3 507(e);
- 4 (7) designate the presiding officer of members meetings under Sections 506(e) and
5 507(g);
- 6 (8) require a statement of purposes in the annual meeting notice under Section
7 508(b);
- 8 (9) increase quorum requirements for members meetings under Section 510 and
9 board of directors meetings under Section 815;
- 10 (10) allocate voting power among members, including patron members and
11 investor members, and provide for the manner of member voting and action as permitted by
12 Sections 511 through 517;
- 13 (11) authorize investor members and expand or restrict the transferability of
14 members' interests to the extent provided in Sections 602 through 604;
- 15 (12) provide for enforcement of a marketing contract under Section 704(a);
- 16 (13) provide for qualification, election, terms, removal, filling vacancies, and
17 member approval for compensation of directors in accordance with Sections 803 through 805,
18 807, 809, and 810;
- 19 (14) restrict the manner of conducting board meetings and taking action without a
20 meeting under Sections 811 and 812;
- 21 (15) provide for frequency, location, notice and waivers of notice for board
22 meetings under Sections 813 and 814;
- 23 (16) increase the percentage of votes necessary for board action under Section

1 816(b);

2 (17) provide for the creation of committees of the board of directors and matters
3 related to the committees in accordance with Section 817;

4 (18) provide for officers and their appointment, designation, and authority under
5 Section 822;

6 (19) provide for forms and values of contributions under Section 1002;

7 (20) provide for remedies for failure to make a contribution under Section 1003(b);

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

11 (22) specify when a member's dissociation is wrongful and the liability incurred
12 by the dissociating member for damage to the association under Section 1101(b) and (c);

13 (23) provide the personal representative, or other legal representative of, a
14 deceased member or a member adjudged incompetent with additional rights under Section 1103;

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

16 (A) a resolution to dissolve under Section 1205(a)(1);

17 (B) a proposed amendment to the organic rules under Section 402(a)(1);

18 (C) a plan of conversion under Section 1603(a);

19 (D) a plan of merger under Section 1607(a); and

20 (E) a proposed disposition of assets under Section 1503(1); and

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

22 (A) a resolution to dissolve under Section 1205;

23 (B) an amendment to the organic rules under Section 405;

1 (C) a plan of conversion under Section 1603;

2 (D) a plan of merger under Section 1608; and

3 (E) a disposition of assets under Section 1504.

4 (d) The organic rules must address members' contributions pursuant to Section 1001.

5 **SECTION 114. REQUIRED INFORMATION.**

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

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

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

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

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

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

16 (6) the six most recent annual reports delivered by the association to the [Secretary
17 of State];

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

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

21 (9) a list containing:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **SECTION 115. BUSINESS TRANSACTIONS OF MEMBER WITH LIMITED**
2 **COOPERATIVE ASSOCIATION.** Subject to Sections 818 and 819 and except as otherwise

3 provided in the organic rules or a specific contract relating to a transaction, a member may lend
4 money to and transact other business with a limited cooperative association in the same manner as
5 a person that is not a member.

6 **SECTION 116. DUAL CAPACITY.** A person may have a patron member's interest
7 and an investor member's interest. When such person acts as a patron member, the person is
8 subject to this [act] and the organic rules governing patron members. When such person acts as an
9 investor member, the person is subject to this [act] and the organic rules governing investor
10 members.

11 **SECTION 117. DESIGNATED OFFICE AND REGISTERED AGENT FOR**
12 **SERVICE OF PROCESS.**

13 (a) ~~A~~Each limited cooperative association, ~~or a~~ and each registered foreign cooperative
14 ~~that has a certificate of authority under Section 1404,~~ shall designate and ~~continuously maintain a~~
15 registered agent in this state:

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

18 (2) ~~an agent for service of process at the designated office.~~The designation of a
19 registered agent pursuant to this subsection is an affirmation of fact by the limited cooperative or
20 registered foreign cooperative that the agent has consented to serve.

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

1 (c) The duties of a registered agent are:

2 (1) to forward to the limited cooperative association or registered foreign
3 cooperative at the address most recently supplied to the agent by the association any process,
4 notice, or demand pertaining to the association which is served on or received by the agent; and

5 (2) if the registered agent resigns, to provide the notice required by Section 119(c)
6 to the association at the address most recently supplied to the agent by the association.

7 **SECTION 118. CHANGE OF ~~DESIGNATED OFFICE OR~~ REGISTERED AGENT**
8 **~~FOR SERVICE OF PROCESS~~ OR ADDRESS OF REGISTERED AGENT OR**
9 **PRINCIPAL OFFICE.**

10 ~~(a) Except as otherwise provided in Section 207(e), to change its designated office, its~~
11 ~~agent for service of process, or the street address or, if different, mailing address of its principal~~
12 ~~office, a limited cooperative association must deliver to the [Secretary of State] for filing a~~
13 ~~statement of change containing:~~

- 14 ~~(1) the name of the limited cooperative association;~~
15 ~~(2) the street address and, if different, mailing address of its designated office;~~
16 ~~(3) if the designated office is to be changed, the street address and, if different,~~
17 ~~mailing address of the new designated office;~~
18 ~~(4) the name of its agent for service of process; and~~
19 ~~(5) if the agent for service of process is to be changed, the name of the new agent.~~

20 ~~(b) Except as otherwise provided in Section 207(e), to change its agent for service of~~
21 ~~process, the address of its designated office, or the street address or, if different, mailing address~~
22 ~~of its principal office, a foreign cooperative shall deliver to the [Secretary of State] for filing a~~
23 ~~statement of change containing:~~

1 ~~(1) the name of the foreign cooperative;~~
2 ~~(2) the name, street address and, if different, mailing address of its designated~~
3 ~~office;~~
4 ~~(3) if the current agent for service of process or an address of the designated office~~
5 ~~is to be changed, the new information;~~
6 ~~(4) the street address and, if different, mailing address of its principal office; and~~
7 ~~(5) if the street address or, if different, the mailing address of its principal office is~~
8 ~~to be changed, the street address and, if different, the mailing address of the new principal office.~~

9 (a) A limited cooperative association or registered foreign cooperative may change its
10 registered agent, the address of its registered agent, or the address of its principal office by
11 delivering to the [Secretary of State] for filing a statement of change which states:

12 (1) the name of the association; and
13 (2) the information that is to be in effect as a result of the filing of the statement of
14 change.

15 (b) The designation of a new registered agent pursuant to this section is an affirmation of
16 fact by the limited cooperative association or registered foreign cooperative that the agent has
17 consented to serve.

18 ~~(c) Except as otherwise provided in~~ Subject to Section 204, a statement of change is
19 effective when filed by the [Secretary of State].

20 **SECTION 119. RESIGNATION OF REGISTERED AGENT ~~FOR SERVICE OF~~**
21 **~~PROCESS.~~**

22 ~~(a) To resign as an agent for service of process of~~ A registered agent may resign as agent
23 for a limited cooperative association or registered foreign cooperative, the agent must deliver by

1 delivering to the [Secretary of State] for filing a statement of resignation containing the name of
2 the agent and the name of the association or foreign cooperative that states:

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

4 (2) the name of the agent;

5 (3) that the agent resigns from serving as registered agent for the association or
6 registered foreign cooperative; and

7 (4) the address of the association or registered foreign cooperative to which the
8 agent will send the notice required by subsection (c).

9 (b) A statement of resignation takes effect on the earlier of the 31st day after the day on
10 which it is filed by the [Secretary of State] or the designation of a new registered agent for the
11 limited cooperative association or registered foreign cooperative.

12 (c) A registered agent promptly shall furnish the limited cooperative association or
13 registered foreign cooperative notice in a record of the date on which a statement of resignation
14 was filed.

15 (d) When a statement of resignation takes effect, the registered agent ceases to have
16 responsibility for any matter tendered to it as agent for the limited cooperative association or
17 registered foreign cooperative. The resignation does not affect any contractual rights the
18 association or registered foreign cooperative has against the agent or that the agent has against the
19 association or registered foreign cooperative.

20 (e) A registered agent may resign with respect to a limited cooperative association or
21 registered foreign cooperative whether or not the association or registered foreign cooperative is
22 in good standing.

23 (b) After receiving a statement of resignation under subsection (a), the [Secretary of State]

1 shall file it and mail or otherwise provide or deliver a copy to the limited cooperative association
2 or foreign cooperative at its principal office.

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

5 (1) the 31st day after the [Secretary of State] files a statement of resignation under
6 subsection (b); or

7 (2) when a record designating a new agent for service of process is delivered to the
8 [Secretary of State] for filing on behalf of the association or foreign cooperative and becomes
9 effective.

10 **SECTION 120. SERVICE OF PROCESS, NOTICE, OR DEMAND.**

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

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

20 (c) Service of process, notice, or a demand on the [Secretary of State] as agent of a limited
21 cooperative association or foreign cooperative may be made by delivering to the [Secretary of
22 State] two copies of the process, notice, or demand. The [Secretary of State] shall forward one
23 copy by registered or certified mail, return receipt requested, to the association or foreign

1 cooperative at its principal office.

2 (d) ~~Service is effected under subsection (c) on the earliest of:~~

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

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

7 (3) ~~five days after the process, notice, or demand is deposited by the [Secretary of~~
8 ~~State] for delivery by the United States Postal Service, if postage prepaid to the address of the~~
9 ~~principal office on file with the [Secretary of State].~~

10 (e) ~~The [Secretary of State] shall keep a record of each process, notice, and demand served~~
11 ~~pursuant to this section and record the time of, and the action taken regarding, the service.~~

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

14 (a) A limited cooperative association or registered foreign cooperative may be served with
15 any process, notice, or demand required or permitted by law by serving its registered agent.

16 (b) If a limited cooperative association or registered foreign cooperative no longer has a
17 registered agent, or if its registered agent cannot with reasonable diligence be served, the
18 association or registered foreign cooperative may be served by registered or certified mail, return
19 receipt requested, or by similar commercial delivery service, addressed to the association or
20 registered foreign cooperative at its principal office in accordance with any applicable judicial
21 rules and procedures. Service is effected under this subsection on the earliest of:

22 (1) the date the association or registered foreign cooperative receives the mail or
23 delivery by a similar commercial delivery service;

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

(3) five days after its deposit with the United States Postal Service, or similar commercial delivery service, if correctly addressed and with sufficient postage or payment.

(c) If process, notice, or demand cannot be served on a limited cooperative association or registered foreign cooperative pursuant to subsection (a) or (b), service may be made by handing a copy to the individual in charge of any regular place of business or activity of the association or registered foreign cooperative if the individual served is not a plaintiff in the action.

(d) Service of process, notice, or demand on a registered agent must be in a written record.

(e) Service of process, notice, or demand may be made by other means under law other than this [act].

1 [ARTICLE] 2

2 FILING AND OTHER REPORTS

3
4 SECTION 201. SIGNING OF RECORDS TO BE DELIVERED FOR FILING TO
5 SECRETARY OF STATE.

6 (a) A record delivered to the [Secretary of State] for filing pursuant to this [act] must be
7 signed as follows:

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

9 (2) A statement of cancellation under Section 302(d) must be signed by at least one
10 organizer.

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

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

16 (5) Any other record must be signed by the person on whose behalf the record is
17 delivered to the [Secretary of State].

18 (b) Any record to be signed under this [act] may be signed by an authorized agent.

19 SECTION 202. SIGNING AND FILING ~~OF RECORDS PURSUANT TO~~
20 JUDICIAL ORDER.

21 (a) If a person required by this [act] to sign a record or deliver a record to the [Secretary of
22 State] for filing does not do so, ~~the [appropriate court], upon petition of an~~ any other person that is
23 aggrieved person, may petition the [appropriate court] to order:

24 (1) the person to sign the record;

1 (2) ~~the person to~~ and deliver it the record to the [Secretary of State] for filing; or

2 ~~(2) (3) delivery of the unsigned record to the [Secretary of State] for filing to file~~
3 the record unsigned.

4 (b) ~~An aggrieved person~~ If a petitioner under subsection (a), ~~other than is not~~ the limited
5 cooperative association or foreign cooperative to which the record pertains, the petitioner shall
6 make the association or foreign cooperative a party to the action ~~brought to obtain the order.~~

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

8 **~~SECTION 203. DELIVERY TO AND FILING OF RECORDS BY [SECRETARY~~**
9 **~~OF STATE]; EFFECTIVE TIME AND DATE.~~**

10 ~~(a) A record authorized or required by this [act] to be delivered to the [Secretary of State]~~
11 ~~for filing must be captioned to describe the record's purpose, be in a medium and format~~
12 ~~permitted by the [Secretary of State], and be delivered to the [Secretary of State]. If the filing fees~~
13 ~~have been paid, and unless the [Secretary of State] determines that the record does not comply~~
14 ~~with the filing requirements of this [act], the [Secretary of State] shall file the record [and send a~~
15 ~~copy of the filed record and a receipt for the fees to the person on whose behalf the record was~~
16 ~~filed].~~

17 (b) ~~The [Secretary of State], upon request and payment of the required fee, shall furnish a~~
18 ~~certified copy of any record filed by the [Secretary of State] under this [act] to the person making~~
19 ~~the request.~~

20 (c) ~~Except as otherwise provided in Sections 118 and 204, a record delivered to the~~
21 ~~[Secretary of State] for filing under this [act] may specify an effective time and a delayed~~
22 ~~effective date that may include an effective time on that date. Except as otherwise provided in~~
23 ~~Sections 118 and 204, a record filed by the [Secretary of State] under this [act] is effective:~~

1 ~~(1) if the record does not specify an effective time and does not specify a delayed~~
2 ~~effective date, on the date and at the time the record is filed as evidenced by the [Secretary of~~
3 ~~State's] [endorsement] of the date and time on the record;~~

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

6 ~~(3) if the record specifies a delayed effective date but not an effective time, at~~
7 ~~12:01 a.m. on the earlier of:~~

8 ~~(A) the specified date; or~~

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

10 ~~(4) if the record specifies an effective time and a delayed effective date, at the~~
11 ~~specified time on the earlier of:~~

12 ~~(A) the specified date; or~~

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

14 **SECTION 203. FILING REQUIREMENTS.**

15 (a) To be filed by the [Secretary of State] pursuant to this [act], a record must be received
16 by the [Secretary of State] and must comply with this [act] and satisfy the following:

17 (1) The filing of the record must be required or permitted by this [act].

18 (2) The record must be physically delivered in written form unless and to the
19 extent the [Secretary of State] permits electronic delivery of records in other than written form.

20 (3) The words in the record must be in English, and numbers must be in Arabic or
21 Roman numerals, but the name of the entity need not be in English if written in English letters or
22 Arabic or Roman numerals.

23 (4) The record must be signed by a person authorized to sign the filing under

1 Section 201.

2 (5) The record must state the name and capacity, if any, of each person that signed
3 it but need not contain a seal, attestation, acknowledgment, or verification.

4 (b) If law other than this [act] prohibits the disclosure by the [Secretary of State] of
5 information contained in a record filed by the [Secretary of State], the [Secretary of State] shall
6 accept the filing if the filing otherwise complies with this section but the [Secretary of State] may
7 redact the information.

8 (c) When a record is delivered to the [Secretary of State] for filing, any fee required under
9 this [act] and any fee, tax, or penalty required to be paid under this [act] or law other than this
10 [act] must be paid in a manner permitted by the [Secretary of State] or by that law.

11 (d) The [Secretary of State] may require that a record delivered in written form be
12 accompanied by an identical or conformed copy.

13 **SECTION 204. EFFECTIVE TIME AND DATE.** Except as otherwise provided in
14 Section 206 and subject to Section 207(c), a filing is effective:

15 (1) on the date and at the time of its filing by the [Secretary of State];

16 (2) on the date of filing and at the time specified in the filing as its effective time,
17 if later than the time under paragraph (1);

18 (3) at a specified delayed effective time and date, which may not be more than 90
19 days after the date of filing; or

20 (4) if a delayed effective date is specified as permitted by this [act], but no time is
21 specified, at 12:01 a.m. on the date specified.

1 **SECTION 205. WITHDRAWAL OF FILED RECORD BEFORE**
2 **EFFECTIVENESS.**

3 (a) Except as otherwise provided in Chapter 16, a filed record may be withdrawn before it
4 takes effect by delivering to the [Secretary of State] for filing a statement of withdrawal.

5 (b) A statement of withdrawal must:

6 (1) be signed on behalf of each person that signed the record being withdrawn,
7 except as otherwise agreed by those persons;

8 (2) identify the filed record to be withdrawn and the date of its filing; and

9 (3) if not signed on behalf of each person that signed the record being withdrawn,
10 state that the record is withdrawn in accordance with the agreement of all the persons who signed
11 the record.

12 (c) On filing by the [Secretary of State] of a statement of withdrawal, the action or
13 transaction evidenced by the original filed record does not take effect.

14 **SECTION ~~204~~ 206. CORRECTING FILED RECORD.**

15 ~~(a) A limited cooperative association or foreign cooperative may deliver to the [Secretary~~
16 ~~of State] for filing a statement of correction to correct a record previously delivered by the~~
17 ~~association or foreign cooperative to the [Secretary of State] and filed by the [Secretary of State]~~
18 ~~if, at the time of filing, the record contained inaccurate information or was defectively signed.~~

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

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

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

1 ~~(3) correct the inaccurate information or defective signature.~~

2 ~~(c) When filed by the [Secretary of State], a statement of correction is effective:~~

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

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

7 (a) A person on whose behalf a filed record was delivered to the [Secretary of State] for
8 filing may correct the record if:

9 (1) the record at the time of filing was inaccurate;

10 (2) the record was defectively signed; or

11 (3) the electronic transmission of the record to the [Secretary of State] was
12 defective.

13 (b) To correct a filed record, a person on whose behalf the record was delivered to the
14 [Secretary of State] must deliver to the [Secretary of State] for filing a statement of correction.

15 (c) A statement of correction:

16 (1) may not state a delayed effective date;

17 (2) must be signed on behalf of the person correcting the filed record;

18 (3) must identify the filed record to be corrected or have attached a copy and state
19 the date of its filing;

20 (4) must specify the inaccuracy or defect to be corrected; and

21 (5) must correct the inaccuracy or defect.

22 (d) A statement of correction is effective as of the effective date of the filed record that it
23 corrects and persons relying on the uncorrected filed record and adversely affected by the

1 correction. For those purposes and persons, the statement of correction is effective when filed.

2 **SECTION 207. DUTY OF [SECRETARY OF STATE] TO FILE; REVIEW OF**
3 **REFUSAL TO FILE; TRANSMISSION OF INFORMATION BY THE [SECRETARY OF**
4 **STATE].**

5 (a) The [Secretary of State] shall file a record delivered to the [Secretary of State] for
6 filing which satisfies this [act]. The duty of the [Secretary of State] under this section is
7 ministerial.

8 (b) When the [Secretary of State] files a record pursuant to this [act], the [Secretary of
9 State] shall record it as filed on the date and time of its delivery. After filing a record, the
10 [Secretary of State] shall deliver a copy of the filing with an acknowledgment of the date and time
11 of filing to the person on whose behalf the record was delivered for filing.

12 (c) If the [Secretary of State] refuses to file a record pursuant to this [act], the [Secretary
13 of State] shall return the record or notify the person that submitted the record not later than [15]
14 business days after the record is delivered, together with a brief explanation in a record of the
15 reason for the refusal.

16 (d) If the [Secretary of State] refuses to file a record pursuant to this act, the person that
17 submitted the filing may seek review of the refusal by the [appropriate court] under the following
18 procedures:

19 (1) The review proceeding is commenced by petitioning the court to compel filing
20 of the record and by attaching to the petition the record and the explanation of the [Secretary of
21 State] of the refusal to file.

22 (2) The court may summarily order the [Secretary of State] to file the record or
23 take other action the court considers appropriate.

1 (3) The final decision of the court may be appealed as in other civil proceedings.

2 (e) The filing of or refusal to file a record pursuant to this [act] does not:

3 (1) affect the validity or invalidity of the filing in whole or in part;

4 (2) affect the correctness or incorrectness of information contained in the filing; or

5 (3) create a presumption that the filing is valid or invalid or that information
6 contained in the filing is correct or incorrect.

7 (f) Except as provided by Section 120 or by law other than this [act], the [Secretary of
8 State] may deliver any record to a person by delivering it to the person that submitted it, to the
9 address of the person's registered agent, to the principal office of the person, or to another address
10 the person provides to the [Secretary of State] for delivery.

11 **SECTION ~~205~~ 208. LIABILITY FOR INACCURATE INFORMATION IN FILED**
12 **RECORD.** If a record delivered to the [Secretary of State] for filing under this [act] and filed by
13 the [Secretary of State] contains inaccurate information, a person that suffers a loss by reliance on
14 the information may recover damages for the loss from a person that signed the record or caused
15 another to sign it on the person's behalf and knew at the time the record was signed that the
16 information was inaccurate.

17 **SECTION ~~206~~ 209. CERTIFICATE OF GOOD STANDING OR**
18 **AUTHORIZATION-REGISTRATION.**

19 ~~(a) The [Secretary of State], upon request and payment of the required fee, shall furnish~~
20 ~~any person that requests it a certificate of good standing for a limited cooperative association if~~
21 ~~the records filed in the office of the [Secretary of State] show that the [Secretary of State] has~~
22 ~~filed the association's articles of organization, that the association is in good standing, and that~~
23 ~~the [Secretary of State] has not filed a statement of termination.~~

1 ~~(b) The [Secretary of State], upon request and payment of the required fee, shall furnish to~~
2 ~~any person that requests it a certificate of authority for a foreign cooperative if the records filed in~~
3 ~~the office of the [Secretary of State] show that the [Secretary of State] has filed the foreign~~
4 ~~cooperative's certificate of authority, has not revoked nor has reason to revoke the certificate of~~
5 ~~authority, and has not filed a notice of cancellation.~~

6 ~~(c) Subject to any exceptions stated in the certificate, a certificate of good standing or~~
7 ~~authority issued by the [Secretary of State] establishes conclusively that the limited cooperative~~
8 ~~association or foreign cooperative is in good standing or is authorized to transact business in this~~
9 ~~state.~~

10 (a) On request of any person, the [Secretary of State] shall issue a certificate of good
11 standing for a limited cooperative association or a certificate of registration for a registered
12 foreign cooperative.

13 (b) A certificate under subsection (a) must state:

14 (1) the limited cooperative association's name or the registered foreign
15 cooperative's name used in this state;

16 (2) that a certificate of formation pertaining to the association is formed effective
17 under the law of this state and the effective date of its formation that certificate, or that the
18 registered foreign cooperative is registered to do business in this state;

19 (3) that all fees, taxes, interest, and penalties owed to this state by the association
20 or the registered foreign cooperative and collected through the [Secretary of State] have been
21 paid, if:

22 (A) payment is reflected in the records of the [Secretary of State]; and

23 (B) nonpayment affects the good standing or registration of the association

1 or foreign limited liability company;

2 (4) that the most recent annual report required by Section 210 has been delivered
3 for filing to the [Secretary of State]; and

4 (5) that, with respect to an association, no statement of dissolution or declaration
5 of dissolution has been filed and no proceeding is pending under Section 1203.

6 (c) Subject to any qualification stated in the certificate, a certificate issued by the
7 [Secretary of State] under subsection (a) may be relied upon as conclusive evidence of the facts
8 stated in the certificate.

9 **SECTION ~~207~~ 210. ANNUAL-[ANNUAL] [BIENNIAL] REPORT FOR**
10 **[SECRETARY OF STATE].**

11 (a) ~~A-Each~~ limited cooperative association or and registered foreign cooperative
12 ~~authorized to transact business in this state~~ shall deliver to the [Secretary of State] for filing an
13 ~~annual-~~ [annual] [biennial] report that states:

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

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

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

20 (4) in the case of a foreign cooperative, the state or other jurisdiction under whose
21 law the foreign cooperative is formed and any alternative name adopted under Section 1405; and

22 (5) the name of at least one of its directors or members.

23 (b) Information in ~~an annual-~~ [an annual] [a biennial] report must be current as of the date

1 the report is delivered to the [Secretary of State].

2 (c) The first ~~annual~~ [annual] [biennial] report must be delivered to the [Secretary of State]
3 between [January 1 and April 1] of the year following the calendar year in which the limited
4 cooperative association is formed or the foreign cooperative is ~~authorized to transact~~ registered to
5 do business in this state. ~~An annual report~~ Subsequent [annual] [biennial] reports must be
6 delivered to the [Secretary of State] between [January 1 and April 1] of each ~~subsequent~~ [second]
7 calendar year thereafter.

8 (d) If ~~an annual~~ [an annual] [a biennial] report does not contain the information required
9 by subsection (a), the [Secretary of State] shall promptly notify the reporting limited cooperative
10 association or registered foreign cooperative and return the report for correction. If the report is
11 corrected to contain the information required by subsection (a) and delivered to the [Secretary of
12 State] not later than 30 days after the date of the notice from the [Secretary of State], it is timely
13 delivered.

14 (e) If a filed ~~annual~~ [annual] [biennial] report contains an address of the designated office,
15 name of the registered agent ~~for service of process~~, or address of the principal office which differs
16 from the information shown in the records of the [Secretary of State] immediately before the
17 filing, the differing information in the ~~annual~~ [annual] [biennial] report is considered a statement
18 of change.

19 (f) If a limited cooperative association fails to deliver ~~an annual~~ [an annual] [a biennial]
20 report under this section, the [Secretary of State] may proceed under Section 1211 to dissolve the
21 association administratively.

22 (g) If a registered foreign cooperative fails to deliver ~~an annual~~ [an annual] [a biennial]
23 report under this section, the [Secretary of State] may revoke the ~~certificate of authority~~

1 registration of the foreign cooperative.

2 **SECTION 208. FILING FEES.** The filing fee for records filed under this [article] by

3 the [Secretary of State] is [insert appropriate fee or citation to fee provision under other state law].

4

1 [ARTICLE] 3

2 FORMATION AND INITIAL ARTICLES OF ORGANIZATION OF LIMITED
3 COOPERATIVE ASSOCIATION

4
5 SECTION 301. ORGANIZERS. A limited cooperative association must be organized
6 by one or more organizers.

7 SECTION 302. FORMATION OF LIMITED COOPERATIVE ASSOCIATION;
8 ARTICLES OF ORGANIZATION.

9 (a) To form a limited cooperative association, an organizer of the association must deliver
10 articles of organization to the [Secretary of State] for filing. The articles must state:

11 (1) the name of the association;

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

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

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

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

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

21 (b) Subject to Section 113(a), articles of organization may contain any other provisions in
22 addition to those required by subsection (a).

23 (c) A limited cooperative association is formed after articles of organization that
24 substantially comply with subsection (a) are delivered to the [Secretary of State], are filed, and

1 become effective under Section 203(c).

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

5 **SECTION 303. ORGANIZATION OF LIMITED COOPERATIVE**
6 **ASSOCIATION.**

7 (a) After a limited cooperative association is formed:

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

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

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

18 (c) Initial directors need not be members.

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

21 **SECTION 304. BYLAWS.**

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

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

3 (A) the classes or other types of members' interests and relative rights,
4 preferences, and restrictions granted to or imposed upon each class or other type of member's
5 interest; and

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

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

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

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

12 (5) a statement concerning the manner in which profits and losses are allocated and
13 distributions are made among patron members and, if investor members are authorized, the
14 manner in which profits and losses are allocated and how distributions are made among investor
15 members and between patron members and investor members;

16 (6) a statement concerning:

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

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

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

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

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

6

1 [ARTICLE] 4

2 AMENDMENT OF ORGANIC RULES OF LIMITED COOPERATIVE ASSOCIATION

3
4 SECTION 401. AUTHORITY TO AMEND ORGANIC RULES.

5 (a) A limited cooperative association may amend its organic rules under this [article] for
6 any lawful purpose. In addition, the initial board of directors may amend the bylaws of an
7 association under Section 304.

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

12 SECTION 402. NOTICE AND ACTION ON AMENDMENT OF ORGANIC
13 RULES.

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

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

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

21 (b) The board of directors shall call a members meeting to consider an amendment
22 proposed pursuant to subsection (a). The meeting must be held not later than 90 days following
23 the proposal of the amendment by the board or receipt of a petition. The board must mail or
24 otherwise transmit or deliver in a record to each member:

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

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

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

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

11 **SECTION 403. METHOD OF VOTING ON AMENDMENT OF ORGANIC**
12 **RULES.**

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

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

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

20 **SECTION 404. VOTING BY DISTRICT, CLASS, OR VOTING GROUP.**

21 (a) This Section applies if the organic rules provide for voting by district or class, or if
22 there is one or more identifiable voting groups that a proposed amendment to the organic rules
23 would affect differently from other members with respect to matters identified in Section

1 405(e)(1) through (5). Approval of the amendment requires the same percentage of votes of the
2 members of that district, class, or voting group required in Sections 405 and 514.

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

7 **SECTION 405. APPROVAL OF AMENDMENT.**

8 (a) Subject to Section 404 and subsections (c) and (d), an amendment to the articles of
9 organization must be approved by:

10 (1) at least two-thirds of the voting power of members present at a members
11 meeting called under Section 402; and

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

15 (b) Subject to Section 404 and subsections (c), (d), (e) and (f), an amendment to the
16 bylaws must be approved by:

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

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

23 (c) The organic rules may require that the percentage of votes under subsection (a)(1) or

(b)(1) 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 paragraphs(1) and (2).

(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, 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) 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), the articles of organization may

1 delegate amendment of all or a part of the bylaws to the board of directors without requiring
2 member approval.

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

7 **SECTION 406. RESTATED ARTICLES OF ORGANIZATION.** A limited
8 cooperative association, by the affirmative vote of a majority of the board of directors taken at a
9 meeting for which the purpose is stated in the notice of the meeting, may adopt restated articles of
10 organization that contain the original articles as previously amended. Restated articles may
11 contain amendments if the restated articles are adopted in the same manner and with the same
12 vote as required for amendments to the articles under Section 405(a). Upon filing, restated articles
13 supersede the existing articles and all amendments.

14 **SECTION 407. AMENDMENT OR RESTATEMENT OF ARTICLES OF**
15 **ORGANIZATION; FILING.**

16 (a) To amend its articles of organization, a limited cooperative association must deliver to
17 the [Secretary of State] for filing an amendment of the articles, or restated articles of organization
18 or articles of conversion or merger pursuant to [Article] 16, which contain one or more
19 amendments of the articles of organization, stating:

- 20 (1) the name of the association;
- 21 (2) the date of filing of the association's initial articles; and
- 22 (3) the changes the amendment makes to the articles as most recently amended or
23 restated.

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

4 (1) cause the articles to be amended; or

5 (2) if appropriate, deliver an amendment to the [Secretary of State] for filing
6 pursuant to Section 203.

7 (c) If restated articles of organization are adopted, the restated articles may be delivered to
8 the [Secretary of State] for filing in the same manner as an amendment.

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

1 [ARTICLE] 5

2 MEMBERS

3
4 SECTION 501. MEMBERS. To begin business, a limited cooperative association must
5 have at least [two] patron members unless the sole member is a cooperative.

6 SECTION 502. BECOMING A MEMBER. ~~A person becomes a member:~~

7 ~~(1) as provided in the organic rules;~~

8 ~~(2) as the result of a merger or conversion under [Article] 16; or~~

9 ~~(3) with the consent of all the members.~~

10 (a) If a limited cooperative association is to have only one cooperative member upon
11 formation, the cooperative becomes a member as agreed by that cooperative and the organizer of
12 the limited cooperative association. That cooperative and the organizer may be, but need not be,
13 different persons. If different, the organizer acts on behalf of the initial cooperative member.

14 (b) If a limited cooperative association is to have more than one member upon formation,
15 those persons become members as agreed by the persons before the formation of the limited
16 cooperative association. The organizer acts on behalf of the persons in forming the limited
17 cooperative association and may be, but need not be, one of the persons.

18 (c) After formation of a limited cooperative association, a person becomes a member:

19 (1) as provided in the organic rules;

20 (2) as the result of a transaction effective under [Article] 16;

21 (3) with the consent of all the members; or

22 (4) if, within 90 consecutive days after the limited cooperative association ceases
23 to have any members:

24 (A) consent to admit at least one specified person as a member is given by

1 transferees owning the rights to receive a majority of distributions as transferees at the time the
2 consent is to be effective; and

3 (B) at least one person becomes a member in accordance with the consent.

4 **Reporters' Notes**

5 Patterned after HULLCA § 401.

6
7 **SECTION 503. NO AGENCY POWER AS OF MEMBER ~~TO BIND~~**
8 **~~ASSOCIATION~~ AS MEMBER.** ~~A member, solely by reason of being a member, may not act~~
9 ~~for or bind the limited cooperative association.~~

10 (a) A member is not an agent of a limited cooperative association solely by reason of
11 being a member.

12 (b) A person's status as a member does not prevent or restrict law other than this [act]
13 from imposing liability on a limited cooperative association because of the person's conduct.

14 **Reporters' Note**

15 Patterned after HULLCA § 301.

16
17 **SECTION 504. NO LIABILITY AS OF MEMBER MEMBERS AND MANAGERS**
18 **~~FOR ASSOCIATION'S OBLIGATIONS.~~** ~~Unless the articles of organization otherwise~~
19 ~~provide, a debt, obligation, or other liability of a limited cooperative association is solely that of~~
20 ~~the association and is not the debt, obligation, or liability of a member solely by reason of being a~~
21 ~~member.~~

22 (a) A debt, obligation, or other liability of a limited cooperative association is solely the
23 debt, obligation, or other liability of the limited cooperative association. A member, manager,
24 agent of the limited cooperative association, or agent of a manager or member is not personally

1 liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other
2 liability of the limited cooperative association solely by reason of being or acting as a member,
3 manager, agent of the limited cooperative association, or agent of a manager or member.

4 (b) The failure of a limited cooperative association to observe any particular formalities
5 relating to the exercise of its powers or management of its activities is not a ground for imposing
6 liability on any member, manager, agent of the cooperative association, or agent of a manager, for
7 any debt, obligation, or other liability of the cooperative association.

8 **Reporters’ Notes**

9 Patterned after HULLCA § 305.

10 **SECTION 505. RIGHT OF ~~MEMBER~~ MEMBERS AND FORMER** 11 **DISSOCIATED ~~MEMBER~~ MEMBERS TO INFORMATION.**

13 ~~(a) Not later than 10 business days after receipt of a demand made in a record, a limited~~
14 ~~cooperative association shall permit a member to obtain, inspect, and copy in the association’s~~
15 ~~principal office~~ On reasonable notice, a member may inspect and copy during regular business
16 hours, at the principal office or a reasonable location specified by the limited cooperative
17 association, required information listed in Sections 114(a)(1) through (8) ~~during regular business~~
18 ~~hours.~~ A member need not have any particular purpose for seeking the information. The
19 association is not required to provide the same information listed in Section 114(a)(2) through (8)
20 to the same member more than once during a six-month period.

21 ~~(b) On demand made in a record received by the limited cooperative association, a~~
22 ~~member may obtain, inspect, and copy in the association’s principal office~~ On reasonable notice,
23 a member may inspect and copy during regular business hours, at the principal office or a
24 reasonable location specified by the limited cooperative association, required information listed in

1 Sections 114(a)(9), (10), (12), (13), (16) and (18) ~~during regular business hours~~, if:

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

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

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

7 (4) the demand is reasonable.

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

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

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

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

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

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

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

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

2 ~~(e) A limited cooperative association shall respond to a demand made pursuant to~~
3 ~~subsection (d) in the manner provided in subsection (e).~~ On 10 days' demand made in a record
4 received by a limited cooperative association, a dissociated member may have access to
5 information to which the person was entitled while a member if the information pertains to the
6 period during which the person was a member, the person seeks the information in good faith, and
7 the person satisfies the requirements imposed on a member by subsection (b)(2). The limited
8 cooperative association shall respond to a demand made pursuant to this subsection in the manner
9 provided in subsection (b)(3).

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

14 ~~(g) A limited cooperative association may impose reasonable restrictions, including~~
15 ~~nondisclosure restrictions, on the use of information obtained under this section.~~ In addition to
16 any restriction or condition stated in its organic rules, a limited cooperative association, as a
17 matter within the ordinary course of its activities, may impose reasonable restrictions and
18 conditions on access to and use of information to be furnished under this section, including
19 designating information confidential and imposing nondisclosure and safeguarding obligations on
20 the recipient. In a dispute concerning the reasonableness of a restriction under this subsection, the
21 association has the burden of proving reasonableness.

22 (h) A limited cooperative association may charge a person that makes a demand under this
23 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) or by the organic rules applies to the attorney or other agent.~~ A member or dissociated member may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the organic rules or under subsection (g) applies both to the agent or legal representative and the member or dissociated member.

(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.

Reporters' Notes

Patterned after HULLCA § 410 with adjustments for the special nature of a limited cooperative association. Importantly, unlike HULLCA § 410, this section does not require a limited cooperative association to furnish any information without demand (HULLCA § 410(2)) and does not impose a duty on any member to furnish on demand any information the limited cooperative association is required to furnish to the extent the member knows such information (HULLCA § 410(3)).

SECTION 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

1 communicate with each other during the meeting.

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

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

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

9 **SECTION 507. SPECIAL MEETING OF MEMBERS.**

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

11 (1) as provided in the organic rules;

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

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

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

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

22 (c) Any voting member may withdraw its demand under subsection (a)(3) or (4) before
23 receipt by the limited cooperative association of demands sufficient to require a special meeting

1 of members.

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

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

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

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

12 **SECTION 508. NOTICE OF MEMBERS MEETING.**

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

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

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

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

22 **SECTION 509. WAIVER OF MEMBERS MEETING NOTICE.**

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

1 meeting.

2 (b) A member's participation in a members meeting is a waiver of notice of that meeting
3 unless the member objects to the meeting at the beginning of the meeting or promptly upon the
4 member's arrival at the meeting and does not thereafter vote for or assent to action taken at the
5 meeting.

6 **SECTION 510. QUORUM OF MEMBERS.** Unless the organic rules otherwise require
7 a greater number of members or percentage of the voting power, the voting member or members
8 present at a members meeting constitute a quorum.

9 **SECTION 511. VOTING BY PATRON MEMBERS.** Except as provided by Section
10 512(a), each patron member has one vote. The organic rules may allocate voting power among
11 patron members as provided in Section 512(a).

12 **SECTION 512. DETERMINATION OF VOTING POWER OF PATRON**
13 **MEMBER.**

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

16 (1) one member, one vote;

17 (2) use or patronage;

18 (3) equity; or

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

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

22 **SECTION 513. VOTING BY INVESTOR MEMBERS.** If the organic rules provide
23 for investor members, each investor member has one vote, unless the organic rules otherwise

1 provide. The organic rules may provide for the allocation of investor member voting power by
2 class, classes, or any combination of classes.

3 **SECTION 514. VOTING REQUIREMENTS FOR MEMBERS.** If a limited
4 cooperative association has both patron and investor members, the following rules apply:

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

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

9 (A) all members voting at the meeting unless more than a majority is required by
10 [Articles] 4, 12, 15 through 16 or the organic rules; and

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

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

15 **SECTION 515. MANNER OF VOTING.**

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

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

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

23 (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.

SECTION 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) 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.

SECTION 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 subsection (a)(2) 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.

1 (d) A delegate elected under subsection (c)(2) has one vote unless voting power is
2 otherwise allocated by the organic rules.

3

1 [ARTICLE] 6

2 MEMBER'S INTEREST IN LIMITED COOPERATIVE ASSOCIATION

3
4 **SECTION 601. MEMBER'S INTEREST.** A member's interest:

5 (1) is personal property;

6 (2) consists of:

7 (A) governance rights;

8 (B) financial rights; and

9 (C) the right or obligation, if any, to do business with the limited cooperative
10 association; and

11 (3) may be in certificated or uncertificated form.

12 **SECTION 602. PATRON AND INVESTOR MEMBERS' INTERESTS.**

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

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

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

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

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

21 **SECTION 603. TRANSFERABILITY OF MEMBER'S INTEREST.**

22 (a) The provisions of this [act] relating to the transferability of a member's interest are
23 subject to [reference to Uniform Commercial Code].

24 (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.

SECTION 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, [reference to Article 9 of the Uniform Commercial Code].

(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.

**SECTION 605. CHARGING ORDERS ORDER 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~~ person to which the charging order was issued, ~~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), 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~~ subject to the charging order, 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~~ necessary 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~~ Except as otherwise provided in subsection (f), the purchaser at the foreclosure sale

1 obtains only the financial rights that are subject to the charging order, does not thereby become a
2 member, and is subject to Section 603.

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

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

13 (f) If a court forecloses a charging order lien against the sole member of a limited
14 cooperative association:

15 (1) the purchaser at the court ordered sale obtains the member's entire interest, not
16 merely the member's financial rights;

17 (2) the purchaser thereby becomes a member; and

18 (3) the person whose interest was subject to the foreclosed charging order is
19 dissociated as a member.

20 (g) This [act] does not deprive any member or transferee of the benefit of any exemption
21 laws applicable to the member's or transferee's financial rights.

22 ~~(g)~~ (h) This section provides the exclusive remedy by which ~~a judgment creditor of a~~
23 ~~member or transferee may~~ a person seeking to enforce a judgment against a member or transferee

1 [may, in the capacity of judgment creditor,](#) satisfy the judgment from the ~~member's or transferee's~~
2 financial rights.

3 **Reporters' Notes**

4 Patterned after HULLCA § 503. New subsection F9f) technically allows the purchaser to acquire
5 the entire interest of the only cooperative member but unless the purchaser is also a cooperative,
6 the purchaser would, by definition, not be able to operate the limited cooperative association.
7

1 [ARTICLE] 7

2 MARKETING CONTRACTS

3
4 SECTION 701. AUTHORITY. In this [article], “marketing contract” means a contract
5 between a limited cooperative association and another person, that need not be a patron member:

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

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

11 SECTION 702. MARKETING CONTRACTS.

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

15 (b) A marketing contract may:

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

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

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

23 SECTION 703. DURATION OF MARKETING CONTRACT. The initial duration of
24 a marketing contract may not exceed 10 years, but the contract may be self-renewing for

1 additional periods not exceeding five years each. Unless the contract provides for another manner
2 or time for termination, either party may terminate the contract by giving notice in a record at
3 least 90 days before the end of the current term.

4 **SECTION 704. REMEDIES FOR BREACH OF CONTRACT.**

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

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

11 (1) an injunction to prevent further breach; and

12 (2) specific performance.

13 (c) The remedies in this section are in addition to any other remedies available to an
14 association under law other than this [act].

1 [ARTICLE] 8

2 DIRECTORS AND OFFICERS

3
4 SECTION 801. BOARD OF DIRECTORS.

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

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

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

13 SECTION 802. NO LIABILITY AS DIRECTOR FOR LIMITED COOPERATIVE
14 ASSOCIATION'S OBLIGATIONS. A debt, obligation, or other liability of a limited
15 cooperative association is solely that of the association and is not a debt, obligation, or liability of
16 a director solely by reason of being a director. An individual is not personally liable, directly or
17 indirectly, for an obligation of an association solely by reason of being a director.

18 SECTION 803. QUALIFICATIONS OF DIRECTORS.

19 (a) Unless the organic rules otherwise provide, and subject to subsection (c), each director
20 of a limited cooperative association must be an individual who is a member of the association or
21 an individual who is designated by a member that is not an individual for purposes of qualifying
22 and serving as a director. Initial directors need not be members.

23 (b) Unless the organic rules otherwise provide, a director may be an officer or employee
24 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.

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), 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), 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), or Sections 303, 516, 517, and 809, member directors must be elected at an annual members meeting.

SECTION 805. TERM OF DIRECTOR.

(a) Unless the organic rules otherwise provide, and subject to subsections (c) and (d) and Section 303(c), 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), 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.

SECTION 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.

SECTION 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

1 be voted in the election of a director may demand removal of the director by one or more signed
2 petitions submitted to the officer of the limited cooperative association charged with keeping its
3 records.

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

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

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

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

13 **SECTION 808. SUSPENSION OF DIRECTOR BY BOARD.**

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

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

18 (2) gross abuse of the position of director;

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

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

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

1 the director is removed.

2 **SECTION 809. VACANCY ON BOARD.**

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

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

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

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

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

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

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

16 **SECTION 810. REMUNERATION OF DIRECTORS.** Unless the organic rules
17 otherwise provide, the board of directors may set the remuneration of directors and of nondirector
18 committee members appointed under Section 817(a).

19 **SECTION 811. MEETINGS.**

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

22 (b) Unless the organic rules otherwise provide, a board of directors may permit directors
23 to attend or conduct board meetings through the use of any means of communication, if all

1 directors attending the meeting can communicate with each other during the meeting.

2 **SECTION 812. ACTION WITHOUT MEETING.**

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

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

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

9 **SECTION 813. MEETINGS AND NOTICE.**

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

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

17 **SECTION 814. WAIVER OF NOTICE OF MEETING.**

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

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

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

1 assent to the action taken at the meeting; or

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

5 **SECTION 815. QUORUM.**

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

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

12 (c) A director present at a meeting but objecting to notice under Section 814(b)(1) or (2)
13 does not count toward a quorum.

14 **SECTION 816. VOTING.**

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

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

19 **SECTION 817. COMMITTEES.**

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

22 (b) Unless the organic rules otherwise provide, an individual appointed to serve on a
23 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.

SECTION 818. STANDARDS OF CONDUCT AND LIABILITY. Except as otherwise provided in Section 820:

(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 [reference to this state's cooperative corporation act or the general business corporation act]; 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 [insert reference to this state's cooperative corporation act or to the general business corporation act].

SECTION 819. CONFLICT OF INTEREST.

(a) The law applicable to conflicts of interest between a director of an entity organized under [reference to this state's cooperative corporation act or the general business corporation act] 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 [act] or the organic rules

1 solely because the director's conduct relating to the duties of the director may further the
2 director's own interest.

3 **SECTION 820. OTHER CONSIDERATIONS OF DIRECTORS.** Unless the articles
4 of organization otherwise provide, in considering the best interests of a limited cooperative
5 association, a director of the association in discharging the duties of director, in conjunction with
6 considering the long and short term interest of the association and its patron members, may
7 consider:

- 8 (1) the interest of employees, customers, and suppliers of the association;
- 9 (2) the interest of the community in which the association operates; and
- 10 (3) other cooperative principles and values that may be applied in the context of the
11 decision.

12 **SECTION 821. RIGHT OF DIRECTOR OR COMMITTEE MEMBER TO**
13 **INFORMATION.** A director or a member of a committee appointed under Section 817 may
14 obtain, inspect, and copy all information regarding the state of activities and financial condition
15 of the limited cooperative association and other information regarding the activities of the
16 association if the information is reasonably related to the performance of the director's duties as
17 director or the committee member's duties as a member of the committee. Information obtained in
18 accordance with this section may not be used in any manner that would violate any duty of or to
19 the association.

20 **SECTION 822. APPOINTMENT AND AUTHORITY OF OFFICERS.**

21 (a) A limited cooperative association has the officers:

- 22 (1) provided in the organic rules; or
- 23 (2) established by the board of directors in a manner not inconsistent with the

1 organic rules.

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

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

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

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

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

14 **SECTION 823. RESIGNATION AND REMOVAL OF OFFICERS.**

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

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

[ARTICLE] 9

INDEMNIFICATION

SECTION 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 [reference to this state's cooperative corporation act or this state's general business corporation act].

(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 [reference to this state's cooperative corporation act or this state's general business corporation act].

1 [ARTICLE] 10

2 CONTRIBUTIONS, ALLOCATIONS, AND DISTRIBUTIONS

3 SECTION 1001. MEMBERS' CONTRIBUTIONS. The organic rules must establish
4 the amount, manner, or method of determining any contribution requirements for members or
5 must authorize the board of directors to establish the amount, manner, or other method of
6 determining any contribution requirements for members.

7 SECTION 1002. CONTRIBUTION AND VALUATION.

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

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

14 (c) Unless the organic rules otherwise provide, the board of directors shall determine the
15 value of a member's contributions received or to be received and the determination by the board
16 of directors of valuation is conclusive for purposes of determining whether the member's
17 contribution obligation has been met.

18 SECTION 1003. CONTRIBUTION AGREEMENTS.

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

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

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

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

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

8 (b) Unless the organic rules or an agreement to make a contribution to a limited
9 cooperative association otherwise provide, if a person does not make a required contribution to an
10 association, the person or the person's estate is obligated, at the option of the association, to
11 contribute money equal to the value of the part of the contribution which has not been made.

12 **SECTION 1004. ALLOCATIONS OF PROFITS AND LOSSES.**

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

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

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

22 (1) amounts paid or due on contracts for the delivery to the association by patron
23 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), 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) 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):

(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.

SECTION 1005. DISTRIBUTIONS.

(a) Unless the organic rules otherwise provide and subject to Section 1007, the board of

1 directors may authorize, and the limited cooperative association may make, distributions to
2 members.

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

6 **SECTION 1006. REDEMPTION OR REPURCHASE.** Property distributed to a
7 member by a limited cooperative association, other than money, may be redeemed or repurchased
8 as provided in the organic rules but a redemption or repurchase may not be made without
9 authorization by the board of directors. The board may withhold authorization for any reason in
10 its sole discretion. A redemption or repurchase is treated as a distribution for purposes of Section
11 1007.

12 **SECTION 1007. LIMITATIONS ON DISTRIBUTIONS DISTRIBUTION.**

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

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

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

22 (2) the association's total assets would be less than the sum of its total liabilities
23 plus the amount that would be needed, if the association were to be dissolved, wound up, and

1 terminated at the time of the distribution, to satisfy the preferential rights upon dissolution,
2 winding up, and termination of members whose preferential rights are superior to those of persons
3 receiving the distribution.

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

8 (c) (d) ~~Except as otherwise provided in subsection (d), the~~ The effect of a distribution
9 allowed under subsection (b) is measured:

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

13 (A) as of the date the indebtedness is distributed; and again

14 (B) as of the date each payment of principal or interest is made (with each
15 payment treated as a distribution); and

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

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

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

21 ~~(d)~~ (e) A limited cooperative association's indebtedness, including indebtedness issued in
22 connection with or as part of a distribution, is not a liability for purposes of subsection (b) if the
23 terms of the indebtedness provide that payment of principal and interest are made only to the

1 extent that a distribution could be made under this section.

2 (f) A limited cooperative association's indebtedness incurred by reason of a distribution
3 made in accordance with this section is at parity with the association's indebtedness to its general,
4 unsecured creditors except to the extent subordinated by agreement.

5 (f) ~~(g)~~ If indebtedness is issued as a distribution, each payment of principal or interest on
6 the indebtedness is treated as a distribution, the effect of which is measured on the date the
7 payment is made. This section does not apply to distributions under Section 1207.

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

12 **SECTION 1008. LIABILITY FOR IMPROPER DISTRIBUTIONS; LIMITATION**
13 **OF ACTION.**

14 (a) ~~A director who consents to a distribution that violates Section 1007 is personally liable~~
15 ~~to the limited cooperative association for the amount of the distribution which exceeds the amount~~
16 ~~that could have been distributed without the violation if it is established that in consenting to the~~
17 ~~distribution the director failed to comply with Section 818 or 819.~~ Except as otherwise provided
18 in subsection (b), if a director of a limited cooperative association consents to a distribution made
19 in violation of Section 1007 and in consenting to the distribution fails to comply with Section
20 818, the director is personally liable to the association for the amount of the distribution that
21 exceeds the amount that could have been distributed without the violation of Section 1007.

22 (b) ~~A member or transferee of financial rights which received~~ person that receives a
23 distribution knowing that the distribution to that person was made in violation of Section 1007 is

1 personally liable to the limited cooperative association but only to the extent that the distribution
2 exceeded the amount that could have been properly paid under Section 1007.

3 (c) A director ~~against whom~~ which an action is commenced because the person is liable
4 under subsection (a) may:

5 (1) implead in the action any other director ~~who is liable~~ that is subject to liability
6 under subsection (a) and ~~compel~~ seek to enforce a right of contribution from the person; and

7 (2) implead ~~in the action~~ any person that is liable under that received a distribution
8 in violation of subsection (b) and ~~compel~~ seek to enforce a right of contribution from the person
9 in the amount the person received ~~as described in~~ violation of subsection (b).

10 (d) An action under this section is barred if it is not commenced ~~later than~~ within two
11 years after the distribution.

12 **Reporters' Notes**

13 Patterned after HULLCA § 406.

14
15 **[SECTION 1009. RELATION TO STATE SECURITIES LAW.** Patron members'
16 interest in a limited cooperative association has the same exemption as provided for substantially
17 similar interests in cooperatives under [reference to appropriate provision of this state's laws].]

18 **[SECTION 1010. ALTERNATIVE DISTRIBUTION OF UNCLAIMED**
19 **PROPERTY, DISTRIBUTIONS, REDEMPTIONS, OR PAYMENTS.** A limited cooperative
20 association may distribute unclaimed property, distributions, redemptions, or payments under
21 [reference to the appropriate provision in the law governing cooperatives not formed under this
22 [act] in this state].]

1 [ARTICLE] 11

2 DISSOCIATION

3
4 SECTION 1101. MEMBER'S DISSOCIATION.

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

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

9 (1) ~~breaches~~ it is in breach an express provision of the organic rules; or

10 (2) it occurs before the termination of the limited cooperative association and:

11 (A) the person is expelled as a member under subsection (d)(3) or (4); or

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

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

19 (d) A member is dissociated from ~~the~~ a limited cooperative association as a member ~~when~~
20 upon the occurrence of any of the following events:

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

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

1 member occurs;

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

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

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

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

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

9 (ii) a charging order in effect under Section 5605 which has not
10 been foreclosed;

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

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

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

16 (ii) the association sends a notice to the member that it will be
17 expelled as a member for a reason described in clause (i); and

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

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

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

23 (6) in the case of a member that is a trust or is acting as a member by virtue of

1 being a trustee of a trust, all the trust's financial rights in the association are distributed;

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

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

6 (9) the association's participation in a ~~merger if, under the plan of merger as~~
7 ~~approved~~ transaction under [Article] 16 that causes the member ~~to ceases~~ cease to be a member.

8 **Reporters' Notes**

9 *Subsections (a) and (b)* – Patterned after RUPA § 602. While a limited cooperative
10 association's bylaws may make the dissociation wrongful, they may not preclude or prohibit the
11 power of a member to wrongfully dissociate.

12
13 *Subsection (c)* – Patterned after ULPA 2001§ 601 with an expansion in subsection (c)(9)
14 recognizing the increased events included in META.

15 16 17 **SECTION 1102. EFFECT OF PERSON'S DISSOCIATION AS MEMBER.**

18 (a) ~~Upon a member's dissociation~~ When a person is dissociated as a member of a limited
19 cooperative association:

20 (1) ~~subject to Section 1103, the person has no further rights as a member; and~~ the
21 person's right to participate as a member in the management and conduct of the association's
22 activities terminates;

23 (2) subject to Section 1103 and [Article] 16, any financial rights owned by the
24 person in the person's capacity as a member ~~immediately before dissociation~~ are owned by the
25 person as a transferee.

26 (b) A person's dissociation as a member does not of itself discharge the person from any
27 debt, obligation, or other liability to the limited cooperative association or the other members

1 which the person incurred ~~under the organic rules, by contract, or by other means~~ while a
2 member.

3 **Reporters' Notes**

4 Patterned after HULLCA § 603.

5 **SECTION 1103. POWER OF ESTATE OF PERSONAL REPRESENTATIVE OF**

6 **DECEASED MEMBER.** ~~Unless the organic rules provide for greater rights, if a member is~~
7 ~~dissociated because of death, dies or is expelled by reason of being adjudged incompetent, the~~
8 ~~member's personal representative or other legal representative may exercise the rights of a~~
9 ~~transferee of the member's financial rights and, for purposes of settling the estate of a deceased~~
10 ~~member, may exercise the informational rights of a current member to obtain information under~~
11 ~~Section 505.~~ If a member dies, the deceased member's personal representative or other legal
12 representative may exercise for the purposes of settling the estate, the rights the deceased member
13 had under Section 505.

14 **Reporters' Notes**

15 Patterned after HULLCA § 504.

1 [ARTICLE] 12

2 DISSOLUTION

3 **SECTION 1201. DISSOLUTION AND WINDING UP.** A limited cooperative
4 association is dissolved only as provided in [this article] and upon dissolution winds up in
5 accordance with [this article].

6 **SECTION 1202. NONJUDICIAL DISSOLUTION.** Except as otherwise provided in
7 Sections 1203 and 1211, a limited cooperative association is dissolved and its activities must be
8 wound up:

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

10 (2) upon the action of the association's organizers, board of directors, or members under
11 Section 1204 or 1205; or

12 (3) 90 days after the dissociation of a member, which results in the association having one
13 patron member and no other members, unless the association:

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

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

18 **SECTION 1203. JUDICIAL DISSOLUTION.** The [appropriate court] may dissolve a
19 limited cooperative association or order any action that under the circumstances is appropriate
20 and equitable:

21 (1) in a proceeding initiated by the [Attorney General], if:

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

23 (B) the association has continued to exceed or abuse the authority conferred upon

1 it by law; or

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

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

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

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

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

12 **SECTION 1204. VOLUNTARY DISSOLUTION BEFORE COMMENCEMENT**
13 **OF ACTIVITY.** A majority of the organizers or initial directors of a limited cooperative
14 association that has not yet begun business activity or the conduct of its affairs may dissolve the
15 association.

16 **SECTION 1205. VOLUNTARY DISSOLUTION BY THE BOARD AND**
17 **MEMBERS.**

18 (a) Except as otherwise provided in Section 1204, for a limited cooperative association to
19 voluntarily dissolve:

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

22 (2) the board of directors must call a members meeting to consider the resolution,
23 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:

(A) the resolution required by paragraph (1);

(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), 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 subsection (a)(2); 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 subsection (b)(1) 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 paragraphs (1) and (2).

SECTION 1206. WINDING UP.

(a) A dissolved limited cooperative association ~~continues after dissolution only for purposes of winding~~ shall wind up its activities, and except as provided in Section 1206A, the association continues after dissolution only for the purpose of winding up.

(b) In winding up its activities, a limited cooperative association's ~~activities~~, the board of

1 directors ~~shall cause the association to:~~

2 (1) shall discharge ~~it's the~~ association's debts, obligations, or other liabilities,
3 settle and close ~~it's~~ the association's activities, and marshal and distribute ~~its~~ the assets of the
4 association; and

5 (2) may:

6 (A) deliver to the [Secretary of State] for filing a statement of dissolution
7 stating the name of the limited cooperative association and that the association is dissolved;

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

10 ~~(3)~~ (C) prosecute and defend actions and proceedings, whether civil,
11 criminal, or administrative;

12 (4) (D) transfer ~~the association~~ association's property; ~~and~~

13 (E) settle disputes by mediation or arbitration;

14 (F) deliver to the [Secretary of State] for filing a statement of termination
15 stating the name of the company and that the company is terminated;
16 and

17 ~~(5)~~ (G) perform other necessary acts.

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

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

23 (2) the applicant establishes other good cause.

1 (d) If a person is appointed pursuant to subsection (c) to wind up the activities of a limited
2 cooperative association, the association shall promptly deliver to the [Secretary of State] for filing
3 an amendment to the articles of organization to reflect the appointment.

4 **Reporters' Notes**

5 Patterned after HULLCA § 702.

6 **SECTION 1206A. RESCINDING DISSOLUTION.**

7
8 (a) A limited cooperative association may rescind its dissolution under subsection (b),
9 unless a statement of termination pertaining to the association has been delivered to the [Secretary
10 of State] for filing, the [appropriate court] has entered an order under Sections [?] dissolving the
11 association, or the [secretary of state] has dissolved the association under Section [?]. If a limited
12 cooperative association rescinds its dissolution, the association resumes carrying on its business
13 as if dissolution had never occurred, and any liability incurred by the association after the
14 dissolution and before the rescission is determined as if dissolution had never occurred.
15 However, the rights of a third party arising out of conduct in reliance on the dissolution before the
16 third party knew or received a notification of the rescission may not be adversely affected.

17 (b) Rescinding dissolution under this section requires:

18 (1) the consent of each member;

19 (2) if a statement of dissolution pertaining to the limited cooperative association
20 has been delivered for filing to the [Secretary of State] but has not become effective, the filing on
21 behalf of the company under Section [?] of a statement of withdrawal pertaining to the statement
22 of dissolution; and

23 (3) if a statement of dissolution pertaining to the limited cooperative association is
24 effective, the filing on behalf of the association of a statement of correction under Section [?]

1 stating that dissolution has been rescinded under this section.

2 **Reporters' Notes**

3 Patterned after HULLCA § 703.

4
5 **SECTION 1207. DISTRIBUTION OF ASSETS IN WINDING UP LIMITED**
6 **COOPERATIVE ASSOCIATION.**

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

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

19 **SECTION 1208. KNOWN CLAIMS AGAINST DISSOLVED LIMITED**
20 **COOPERATIVE ASSOCIATION.**

21 (a) ~~Subject to~~ Except as otherwise provided in subsection (d), a dissolved limited
22 cooperative association may ~~dispose of the known claims against it by following the procedure in~~
23 ~~subsections (b) and (c)~~ give notice of a known claim under subsection (b), which has the effect as
24 provided in subsection (c).

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

- ~~(1) specify that a claim be in a record;~~
- ~~(2)~~ (1) specify the information required to be included in the claim;
- ~~(3)~~ (2) provide an a mailing address to which the claim ~~must~~ is to be sent;
- ~~(4)~~ (3) 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)~~ (4) 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) 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 subsection (b)(4);~~ the claim is not received by the specified deadline; or

(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~~ if the claim is timely received but rejected by the association:

(A) the association causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the association to enforce the claim within 90 days after the claimant receives the notice; and

(B) the claimant does not commence the required action within the 90 days.

~~(3) if a claim is timely received but is neither accepted nor rejected by the~~

1 ~~association within 120 days after the deadline for receipt of claims, the claimant does not~~
2 ~~commence an action to enforce the claim against the association:~~

3 ~~(A) after the 120-day period; and~~

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

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

7 **Reporters' Notes**

8 Patterned after HULLCA § 704.

9 10 **SECTION 1209. OTHER CLAIMS AGAINST DISSOLVED LIMITED** 11 **COOPERATIVE ASSOCIATION.**

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

15 (b) ~~A~~ The notice authorized under subsection (a) must:

16 (1) be published at least once in a newspaper of general circulation in the [county]
17 in this state in which the dissolved limited cooperative association's principal office is located or,
18 if the association ~~does not have a principal office~~ has none in this state, in the [county] in which
19 the office of the association's ~~designated office~~ registered agent is or was last located;

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

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

24 (c) If a dissolved limited cooperative association publishes a notice in accordance with

subsection (b), unless the claimant commences an action to enforce the claim against the association within three years after the publication date of the notice, 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; and

(2) a claimant whose claim was timely sent to the company but not acted on; and

~~(2)~~ (3) a claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.

(d) A claim not barred under this section or Section 1208 may be enforced:

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

(2) except as provided in Section 1210, if the assets of the association's assets association have been distributed after dissolution, ~~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~~ after dissolution, whichever is less, ~~but~~ The a person's total liability for all claims under this paragraph ~~shall~~ does not exceed the total amount of assets distributed to the person ~~as part of the winding up of the association~~ after dissolution.

Reporters' Notes

Patterned after HULLCA § 705.

SECTION 1210. COURT ~~PROCEEDING~~ PROCEEDINGS.

(a) ~~Upon application by a~~ A dissolved limited cooperative association that has published a

1 notice under Section 1209 may file an application with the [appropriate court] in the [county]
2 where the association's principal office is located or, if none ~~the association does not have a~~
3 ~~principal office in this state, where its designated~~ the office in this state is located of its registered
4 agent, may is located for a ~~determine~~ determination the amount and form of security to be
5 provided for payment of claims ~~against the association~~ that are contingent or have not been made
6 known to the association or that are based on an event occurring after the effective date of
7 dissolution but ~~that~~ which, based on the facts known to the dissolved association, are reasonably
8 anticipated to arise after the effective date of dissolution. Provision need not be made for any
9 claim that is or is reasonably anticipated to be barred under section 1209.

10 (b) Not later than 10 days after filing ~~an~~ the application ~~under subsection (a), a dissolved~~
11 ~~limited cooperative association shall give notice of the proceeding to each known claimant~~
12 ~~holding a contingent claim.~~ notice of the proceeding must be given by the dissolved limited
13 cooperative association to each claimant holding a contingent claim whose contingent claim is
14 shown on the records of the dissolved association.

15 (c) ~~The court may appoint a representative in a proceeding brought under this section to~~
16 ~~represent all claimants whose identities are unknown. The dissolved limited cooperative~~
17 ~~association shall pay reasonable fees and expenses of the representative, including all reasonable~~
18 ~~attorney's and expert witness fees.~~ The court may appoint a guardian ad litem to represent all
19 claimants whose identities are unknown in any proceeding brought under this section. The
20 reasonable fees and expenses of such guardian, including all reasonable expert witness fees, must
21 be paid by the dissolved limited cooperative association.

22 (d) Provision by the dissolved limited cooperative association for security in the amount
23 and the form ordered by the court satisfies the dissolved association's obligations with respect to

claims that are contingent, have not been made known to the dissolved association, or are based on an event occurring after the effective date of dissolution. ~~and the~~ The claims may not be enforced against a member or holder of financial rights that received a ~~distribution~~ assets in liquidation.

Reporters' Notes

Patterned after HULLCA § 706.

SECTION 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 [act] [or other law]; 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), 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.

**SECTION 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.

(b) If the [Secretary of State] determines that an application contains the information required by subsection (a) 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.

1 **SECTION 1213. DENIAL OF REINSTATEMENT; APPEAL.**

2 [(a)] If the [Secretary of State] denies a limited cooperative association's application for
3 reinstatement following administrative dissolution, the [Secretary of State] shall prepare and file a
4 notice that explains the reason for denial and serve the association with a copy of the notice.

5 [(b) Not later than 30 days after service of a notice of denial of reinstatement by the
6 [Secretary of State], a limited cooperative association may appeal the denial by petitioning the
7 [appropriate court] to set aside the dissolution. The petition must be served on the [Secretary of
8 State] and contain a copy of the [Secretary of State's] declaration of dissolution, the association's
9 application for reinstatement, and the [Secretary of State's] notice of denial.

10 (c) The court may summarily order the [Secretary of State] to reinstate the dissolved
11 cooperative association or may take other action the court considers appropriate.]

12 **SECTION 1214. STATEMENT OF DISSOLUTION.**

13 (a) A limited cooperative association that has dissolved or is about to dissolve may deliver
14 to the [Secretary of State] for filing a statement of dissolution that states:

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

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

- 19 (1) 90 days after a statement of dissolution is filed; or
20 (2) the effective date stated in the statement of dissolution.

21 **SECTION 1215. STATEMENT OF TERMINATION.**

22 (a) A dissolved limited cooperative association that has completed winding up may deliver
23 to the [Secretary of State] for filing a statement of termination that states:

1 (1) the name of the association;
2 (2) the date of filing of its initial articles of organization; and
3 (3) that the association is terminated.
4 (b) The filing of a statement of termination does not itself terminate the limited
5 cooperative association.
6

1 [ARTICLE] 13

2 ACTION BY MEMBER

3
4 SECTION 1301. DERIVATIVE ACTION. A member may maintain a derivative
5 action to enforce a right of a limited cooperative association if:

6 (1) the member ~~first makes a demands~~ demand on the directors requesting that they cause
7 ~~that the association bring an action to enforce the right~~ and the directors do not bring the action
8 within a reasonable time; or

9 (2) ~~any of the following occur:~~

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

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

13 ~~(C) irreparable harm to the association would result by waiting 90 days after the~~
14 ~~member makes the demand; or~~ a demand under paragraph (1) would be futile.

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

17 Reporters' Notes

18 Patterned after HULLCA § 902.

19
20 SECTION 1302. PROPER PLAINTIFF.

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

23 ~~(1) is a member or a dissociated member at the time the action is commenced and:~~

24 ~~(A) was a member when the conduct giving rise to the action occurred; or~~

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

3 (2) adequately represents the interests of the association.

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

7 A derivative action may be maintained only by a person that is a member at the time the action is
8 commenced and:

9 (1) that was a member when the conduct giving rise to the action occurred; or

10 (2) whose status as a member devolved upon the person by operation of law or pursuant to
11 the terms of the organic rules from a person that was a member at the time of the conduct.

12 **Reporters' Notes**

13 Patterned after HULLCA § 903.

14
15 **SECTION 1303. PLEADING.** In a derivative action to enforce a right of a limited
16 cooperative association under Section 1301, the complaint must state with particularity:

17 (1) the date and content of the plaintiff's demand ~~under Section 1301(1)~~ and the response
18 to the demand by the association; ~~association's response;~~ or

19 (2) ~~if 90 days have not expired since the demand, how irreparable harm to the association~~
20 ~~would result by waiting for the expiration of 90 days; and~~ why the demand should be excused as
21 futile.

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

1 **Reporters' Notes**

2 Patterned after HULLCA § 904.

3
4 **SECTION 1304. APPROVAL FOR DISCONTINUANCE OR SETTLEMENT. A**

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

7 **SECTION 1305. PROCEEDS AND EXPENSES.**

8 (a) Except as otherwise provided in subsection (b):

9 (1) any proceeds or other benefits of a derivative action ~~to enforce a right of a~~
10 ~~limited cooperative association~~ under Section 1301, whether by judgment, compromise, or
11 settlement, belong to the association and not to the plaintiff; and

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

14 (b) If a derivative action ~~to enforce a right of a limited cooperative association~~ under
15 Section 1301 is successful in whole or in part, the court may award the plaintiff reasonable
16 expenses, including reasonable attorney's fees and costs, from the recovery of the association.

17 **Reporters' Notes**

18 Patterned after HULLCA § 906.

19
20 **SECTION 1306. SPECIAL LITIGATION COMMITTEE.**

21 (a) If a limited cooperative association is named as or made a party in a derivative
22 proceeding, the association may appoint a special litigation committee to investigate the claims
23 asserted in the proceeding and determine whether pursuing the action is in the best interests of the
24 company. If the association appoints a special litigation committee, on motion by the committee

1 made in the name of the association, except for good cause shown, the court shall stay discovery
2 for the time reasonably necessary to permit the committee to make its investigation. This
3 subsection does not prevent the court from enforcing a person's right to information under
4 Section 505 or, for good cause shown, granting extraordinary relief in the form of a temporary
5 restraining order or preliminary injunction.

6 (b) A special litigation committee may be composed of one or more disinterested and
7 independent individuals, who may be members.

8 (c) A special litigation committee may be appointed:

9 (1) by a majority of the directors not named as defendants or plaintiffs in the
10 proceeding; and

11 (2) if all directors are named as defendants or plaintiffs in the proceeding, by a
12 majority of the directors named as defendants.

13 (d) After appropriate investigation, a special litigation committee may determine that it is
14 in the best interests of the limited cooperative association that the proceeding:

15 (1) continue under the control of the plaintiff;

16 (2) continue under the control of the committee;

17 (3) be settled on terms approved by the committee; or

18 (4) be dismissed.

19 (e) After making a determination under subsection (d), a special litigation committee shall
20 file with the court a statement of its determination and its report supporting its determination,
21 giving notice to the plaintiff. The court shall determine whether the members of the committee
22 were disinterested and independent and whether the committee conducted its investigation and
23 made its recommendation in good faith, independently, and with reasonable care, with the

committee having the burden of proof. If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court shall enforce the determination of the committee. Otherwise, the court shall dissolve the stay of discovery entered under subsection (a) and allow the action to proceed under the direction of the plaintiff.

Reporters' Notes

Patterned after HULLCA § 905.

1 [ARTICLE] 14

2 FOREIGN COOPERATIVES

3
4 SECTION 1401. GOVERNING LAW.

5 (a) The law of the state or other jurisdiction under which a foreign cooperative is
6 organized governs ~~relations among the members of the foreign cooperative and between the~~
7 ~~members and the foreign cooperative :~~

8 (1) the internal affairs of the foreign cooperative; and

9 (2) the liability of a member as member and a director as director for a debt,
10 obligation, or other liability of the company.

11 (b) A foreign cooperative ~~may not be denied a certificate of authority~~ is not precluded
12 from registering to do business in this state because of any difference between the law of the
13 jurisdiction under which the foreign cooperative is organized and the law of this state.

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

17 ~~SECTION 1402. APPLICATION FOR CERTIFICATE OF AUTHORITY.~~

18 (a) ~~A foreign cooperative may apply for a certificate of authority by delivering an~~
19 ~~application to the [Secretary of State] for filing. The application must state:~~

20 ~~(1) the name of the foreign cooperative and, if the name does not comply with~~
21 ~~Section 111, an alternative name adopted pursuant to Section 1405;~~

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

24 ~~(3) the street address and, if different, mailing address of the principal office and,~~

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

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

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

9 ~~(b) A foreign cooperative shall deliver with a completed application under subsection (a) a~~
10 ~~certificate of good standing [or existence] or a similar record signed by the [Secretary of State] or~~
11 ~~other official having custody of the foreign cooperative's publicly filed records in the state or~~
12 ~~other jurisdiction under whose law the foreign cooperative is organized.~~

13 **SECTION 1402. REGISTRATION TO DO BUSINESS IN THIS STATE.**

14 (a) A foreign cooperative may not do business in this state until it registers with the
15 [Secretary of State] under this [article].

16 (b) A foreign cooperative doing business in this state may not maintain an action or
17 proceeding in this state unless it is registered to do business in this state.

18 (c) The failure of a foreign cooperative to register to do business in this state does not
19 impair the validity of a contract or act of the foreign cooperative or preclude it from defending an
20 action or proceeding in this state.

21 (d) A member or director of a foreign cooperative is not liable for a debt, obligation, or
22 other liability of the foreign cooperative solely because the foreign cooperative did business in
23 this state without registering to do business in this state.

1 (e) Section 801(a) and (b) applies even if a foreign cooperative fails to register under this
2 [article].

3 **SECTION 1403. ACTIVITIES NOT CONSTITUTING TRANSACTING**
4 **BUSINESS.**

5 (a) Activities of a foreign cooperative which do not constitute ~~transacting~~ doing business
6 in this state under this [article] include:

7 (1) maintaining, defending, mediating, arbitrating, and settling an action or
8 proceeding;

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

11 (3) maintaining accounts in financial institutions;

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

15 (5) selling through independent contractors;

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

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

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

23 (9) conducting an isolated transaction that is completed within 30 days and is not

one in the course of similar transactions; and

(10) owning, without more, real or personal property; and

~~(10)~~(11) 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), 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 law of this state other than this [act].

~~SECTION 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 [act], 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.

SECTION ~~1405~~1404. NONCOMPLYING NAME OF FOREIGN COOPERATIVE.

(a) A foreign cooperative whose name does not comply with Section 111 may not ~~obtain a certificate of authority~~ register to do business until it adopts, for the purpose of ~~transacting~~ doing 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~~ registers to do business with that name need not also comply with [reference this state's fictitious or assumed name statute]. After ~~obtaining a certificate of authority~~ registering to do business with an alternative name, a foreign cooperative's business in this state must be transacted under that name

1 unless the foreign cooperative is authorized under [reference this state's fictitious or assumed
2 name statute] to transact business in this state under another name.

3 (b) If a registered foreign cooperative ~~authorized to transact business in this state~~ changes
4 its name to one that does not comply with Section 111, it may not thereafter transact business in
5 this state until it complies with subsection (a) and obtains an amended certificate of authority.

6 **SECTION ~~1406~~ 1405. REVOCATION OF CERTIFICATE OF AUTHORITY.**

7 (a) A certificate of authority may be revoked by the [Secretary of State] in the manner
8 provided in subsection (b) if the foreign cooperative does not:

9 (1) pay, not later than 60 days after the due date, any fee, tax, or penalty due to the
10 [Secretary of State] under this [act] [or law of this state other than this [act]];

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

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

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

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

19 (1) the revocation's effective date, which must be at least 60 days after the date the
20 [Secretary of State] sends the copy; and

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

22 (c) The authority of a foreign cooperative to transact business in this state ceases on the
23 effective date of the notice of revocation unless before that date the foreign cooperative cures

1 each failure to comply stated in the notice. If the foreign cooperative cures the failures, the
2 [Secretary of State] shall so indicate on the filed notice.

3 **SECTION ~~1407~~ 1406. CANCELLATION OF CERTIFICATE OF AUTHORITY;**
4 **EFFECT OF FAILURE TO HAVE CERTIFICATE.**

5 (a) To cancel its certificate of authority, a foreign cooperative must deliver to the
6 [Secretary of State] for filing a notice of cancellation. The certificate is canceled when the notice
7 becomes effective under Section 203.

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

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

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

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

19 **SECTION ~~1408~~ 1407. ACTION BY [ATTORNEY GENERAL].** The [Attorney
20 General] may maintain an action to restrain a foreign cooperative from transacting business in this
21 state in violation of this [article].
22

1 [ARTICLE] 15

2 DISPOSITION OF ASSETS

3
4 SECTION 1501. DISPOSITION OF ASSETS NOT REQUIRING MEMBER

5 APPROVAL. Unless the articles of organization otherwise provide, member approval under
6 Section 1502 is not required for a limited cooperative association to:

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

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

12 SECTION 1502. MEMBER APPROVAL OF OTHER DISPOSITION OF ASSETS.

13 A sale, lease, exchange, license, or other disposition of assets of a limited cooperative association,
14 other than a disposition described in Section 1501, requires approval of the association's
15 members under Sections 1503 and 1504 if the disposition leaves the association without
16 significant continuing business activity.

17 SECTION 1503. NOTICE AND ACTION ON DISPOSITION OF ASSETS. For a
18 limited cooperative association to dispose of assets under Section 1502:

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

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

24 (A) the terms of the proposed disposition;

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

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

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

8 **SECTION 1504. DISPOSITION OF ASSETS.**

9 (a) Subject to subsection (b), a disposition of assets under Section 1502 must be approved
10 by:

11 (1) at least two-thirds of the voting power of members present at a members
12 meeting called under Section 1503(2); and

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

16 (b) The organic rules may require that the percentage of votes under subsection (a)(1) is:

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

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

20 (3) a combination of paragraphs (1) and(2).

21 (c) Subject to any contractual obligations, after a disposition of assets is approved and at
22 any time before the consummation of the disposition, a limited cooperative association may
23 approve an amendment to the contract for disposition or the resolution authorizing the disposition

1 or approve abandonment of the disposition:
2 (1) as provided in the contract or the resolution; and
3 (2) except as prohibited by the resolution, with the same affirmative vote of the
4 board of directors and of the members as was required to approve the disposition.
5 (d) The voting requirements for districts, classes, or voting groups under Section 404
6 apply to approval of a disposition of assets under this [article].
7

1 [ARTICLE] 16

2 **CONVERSION AND MERGER**

3 **~~SECTION 1601. DEFINITIONS.~~** In this [article]:

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

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

7 (3) ~~“Converted entity” means the organization into which a converting entity converts~~
8 ~~pursuant to Sections 1602 through 1605.~~

9 (4) ~~“Converting entity” means an entity that converts into another entity pursuant to~~
10 ~~Sections 1602 through 1605.~~

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

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

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

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

21 (B) ~~by the entity’s organizational documents under a provision of the entity’s~~
22 ~~organic law authorizing those documents to make one or more specified persons liable for all or~~
23 ~~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.

~~SECTION 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, 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.

~~SECTION 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

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

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

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

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

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

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

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

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

19 (c) The organic rules may require that the percentage of votes under subsection (b)(1) is:

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

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

23 (3) a combination of paragraphs (1) and (2).

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

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

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

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

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

12 ~~(1) as provided in the plan; and~~

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

15 ~~(g) The voting requirements for districts, classes, or voting groups under Section 404~~
16 ~~apply to approval of a conversion under this [article].~~

17 **~~SECTION 1604. FILINGS REQUIRED FOR CONVERSION; EFFECTIVE DATE.~~**

18 ~~(a) After a plan of conversion is approved:~~

19 ~~(1) a converting limited cooperative association shall deliver to the [Secretary of~~
20 ~~State] for filing articles of conversion, which must include:~~

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

23 ~~(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 [act];

(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; 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:

(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 Section 203(c); or

(2) if the converted entity is not a limited cooperative association, as provided by the governing statute of the converted entity.

1 **~~SECTION 1605. EFFECT OF CONVERSION.~~**

2 ~~(a) An entity that has been converted pursuant to this [article] is for all purposes the same~~
3 ~~entity that existed before the conversion and is not a new entity but, after conversion, is organized~~
4 ~~under the organic law of the converted entity and is subject to that law and other law as it applies~~
5 ~~to the converted entity.~~

6 ~~(b) When a conversion takes effect under this [Article]:~~

7 ~~(1) all property owned by the converting entity remains vested in the converted~~
8 ~~entity;~~

9 ~~(2) all debts, liabilities, and other obligations of the converting entity continue as~~
10 ~~obligations of the converted entity;~~

11 ~~(3) an action or proceeding pending by or against the converting entity may be~~
12 ~~continued as if the conversion had not occurred;~~

13 ~~(4) except as prohibited by other law, all the rights, privileges, immunities, powers,~~
14 ~~and purposes of the converting entity remain vested in the converted entity;~~

15 ~~(5) except as otherwise provided in the plan of conversion, the terms and~~
16 ~~conditions of the plan of conversion take effect; and~~

17 ~~(6) except as otherwise provided in the plan of conversion, the conversion does not~~
18 ~~dissolve a converting limited cooperative association for purposes of [Article] 12.~~

19 ~~(c) A converted entity that is an entity organized under the laws of a jurisdiction other~~
20 ~~than this state consents to the jurisdiction of the courts of this state to enforce any obligation owed~~
21 ~~by the converting limited cooperative association if, before the conversion, the converting limited~~
22 ~~cooperative association was subject to suit in this state on the obligation. A converted entity that~~
23 ~~is an entity organized under the laws of a jurisdiction other than this state and not authorized to~~

1 ~~transact business in this state appoints the [Secretary of State] as its agent for service of process~~
2 ~~for purposes of enforcing an obligation under this subsection. Service on the [Secretary of State]~~
3 ~~under this subsection is made in the same manner and with the same consequences as under~~
4 ~~Section 120(c) and (d).~~

5 **~~SECTION 1606. MERGER.~~**

6 ~~(a) One or more limited cooperative associations may merge with one or more other~~
7 ~~entities pursuant to this [article] and a plan of merger if:~~

8 ~~(1) the governing statute of each of the other entities authorizes the merger;~~

9 ~~(2) the merger is not prohibited by the law of a jurisdiction that enacted any of~~
10 ~~those governing statutes; and~~

11 ~~(3) each of the other entities complies with its governing statute in effecting the~~
12 ~~merger.~~

13 ~~(b) A plan of merger must be in a record and must include:~~

14 ~~(1) the name and form of each constituent entity;~~

15 ~~(2) the name and form of the surviving entity and, if the surviving entity is to be~~
16 ~~created by the merger, a statement to that effect;~~

17 ~~(3) the terms and conditions of the merger, including the manner and basis for~~
18 ~~converting the interests in each constituent entity into any combination of money, interests in the~~
19 ~~surviving entity, and other consideration;~~

20 ~~(4) if the surviving entity is to be created by the merger, the surviving entity's~~
21 ~~organizational documents;~~

22 ~~(5) if the surviving entity is not to be created by the merger, any amendments to be~~
23 ~~made by the merger to the surviving entity's organizational documents; and~~

1 ~~(6) if a member of a constituent limited cooperative association will have personal~~
2 ~~liability with respect to a surviving entity, the identity of the member by descriptive class or other~~
3 ~~reasonable manner.~~

4 ~~**SECTION 1607. NOTICE AND ACTION ON PLAN OF MERGER BY**~~
5 ~~**CONSTITUENT LIMITED COOPERATIVE ASSOCIATION.**~~

6 ~~(a) For a limited cooperative association to merge with another entity, a plan of merger~~
7 ~~must be approved by a majority vote of the board of directors or a greater percentage if required~~
8 ~~by the association's organic rules.~~

9 ~~(b) The board of directors shall call a members meeting to consider a plan of merger~~
10 ~~approved by the board, hold the meeting not later than 90 days after approval of the plan by the~~
11 ~~board, and mail or otherwise transmit or deliver in a record to each member:~~

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

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

17 ~~(3) a statement of any condition of the board's submission of the plan of merger to~~
18 ~~the members; and~~

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

21 ~~**SECTION 1608. APPROVAL OR ABANDONMENT OF MERGER BY**~~
22 ~~**MEMBERS.**~~

23 ~~(a) Subject to subsections (b) and (c), a plan of merger must be approved by:~~

1 ~~(1) at least two thirds of the voting power of members present at a members~~
2 ~~meeting called under Section 1607(b); and~~

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

6 ~~(b) The organic rules may provide that the percentage of votes under subsection (a)(1) is:~~

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

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

10 ~~(3) a combination of paragraphs (1) and (2).~~

11 ~~(c) The vote required to approve a plan of merger may not be less than the vote required~~
12 ~~for the members of the limited cooperative association to amend the articles of organization.~~

13 ~~(d) Consent in a record to a plan of merger by a member must be delivered to the limited~~
14 ~~cooperative association before delivery of articles of merger for filing pursuant to Section 1609 if~~
15 ~~as a result of the merger the member will have:~~

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

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

18 ~~(e) Subject to subsection (d) and any contractual rights, after a merger is approved, and at~~
19 ~~any time before the effective date of the merger, a limited cooperative association that is a party~~
20 ~~to the merger may approve an amendment to the plan of merger or approve abandonment of the~~
21 ~~planned merger:~~

22 ~~(1) as provided in the plan; and~~

23 ~~(2) except as prohibited by the plan, with the same affirmative vote of the board of~~

1 ~~directors and of the members as was required to approve the plan.~~

2 ~~(f) The voting requirements for districts, classes, or voting groups under Section 404 apply~~
3 ~~to approval of a merger under this [article].~~

4 **~~SECTION 1609. FILINGS REQUIRED FOR MERGER; EFFECTIVE DATE.~~**

5 ~~(a) After each constituent entity has approved a merger, articles of merger must be signed~~
6 ~~on behalf of each constituent entity by an authorized representative.~~

7 ~~(b) The articles of merger must include:~~

8 ~~(1) the name and form of each constituent entity and the jurisdiction of its~~
9 ~~governing statute;~~

10 ~~(2) the name and form of the surviving entity, the jurisdiction of its governing~~
11 ~~statute, and, if the surviving entity is created by the merger, a statement to that effect;~~

12 ~~(3) the date the merger is effective under the governing statute of the surviving~~
13 ~~entity;~~

14 ~~(4) if the surviving entity is to be created by the merger and:~~

15 ~~(A) will be a limited cooperative association, the limited cooperative~~
16 ~~association's articles of organization; or~~

17 ~~(B) will be an entity other than a limited cooperative association, the~~
18 ~~organizational document that creates the entity;~~

19 ~~(5) if the surviving entity is not created by the merger, any amendments provided~~
20 ~~for in the plan of merger to the organizational document that created the entity;~~

21 ~~(6) a statement as to each constituent entity that the merger was approved as~~
22 ~~required by the entity's governing statute;~~

23 ~~(7) if the surviving entity is a foreign organization not authorized to~~

1 transact business in this state, the street address and, if different, mailing address of an office
2 which the [Secretary of State] may use for the purposes of Section 120; and

3 (8) any additional information required by the governing statute of any constituent
4 entity.

5 (c) Each limited cooperative association that is a party to a merger shall deliver the articles
6 of merger to the [Secretary of State] for filing.

7 (d) A merger becomes effective under this [article]:

8 (1) if the surviving entity is a limited cooperative association, upon the later of:

9 (A) compliance with subsection (c); or

10 (B) subject to Section 203(c), as specified in the articles of merger; or

11 (2) if the surviving entity is not a limited cooperative association, as provided by
12 the governing statute of the surviving entity.

13 **SECTION 1610. EFFECT OF MERGER.**

14 (a) When a merger becomes effective:

15 (1) the surviving entity continues or comes into existence;

16 (2) each constituent entity that merges into the surviving entity ceases to exist as a
17 separate entity;

18 (3) all property owned by each constituent entity that ceases to exist vests in the
19 surviving entity;

20 (4) all debts, liabilities, and other obligations of each constituent entity that ceases
21 to exist continue as obligations of the surviving entity;

22 (5) an action or proceeding pending by or against any constituent entity that ceases
23 to exist may be continued as if the merger had not occurred;

1 ~~(6) except as prohibited by law other than this [act], all rights, privileges,~~
2 ~~immunities, powers, and purposes of each constituent entity that ceases to exist vest in the~~
3 ~~surviving entity;~~

4 ~~(7) except as otherwise provided in the plan of merger, the terms and conditions of~~
5 ~~the plan take effect;~~

6 ~~(8) except as otherwise provided in the plan of merger, if a merging limited~~
7 ~~cooperative association ceases to exist, the merger does not dissolve the association for purposes~~
8 ~~of [Article] 12;~~

9 ~~(9) if the surviving entity is created by the merger and:~~

10 ~~(A) is a limited cooperative association, the articles of organization become~~
11 ~~effective; or~~

12 ~~(B) is an entity other than a limited cooperative association, the~~
13 ~~organizational document that creates the entity becomes effective; and~~

14 ~~(10) if the surviving entity is not created by the merger, any amendments made by~~
15 ~~the articles of merger for the organizational documents of the surviving entity become effective.~~

16 ~~(b) A surviving entity that is an entity organized under the laws of a jurisdiction other than~~
17 ~~this state consents to the jurisdiction of the courts of this state to enforce any obligation owed by~~
18 ~~the constituent entity if, before the merger, the constituent entity was subject to suit in this state~~
19 ~~on the obligation. A surviving entity that is an entity organized under the laws of a jurisdiction~~
20 ~~other than this state and not authorized to transact business in this state appoints the [Secretary of~~
21 ~~State] as its agent for service of process for purposes of enforcing an obligation under this~~
22 ~~subsection. Service on the [Secretary of State] under this subsection is made in the same manner~~
23 ~~and with the same consequences as in Section 120(c) and (d).~~

1 **~~SECTION 1611. CONSOLIDATION.~~**

2 ~~(a) Constituent entities that are limited cooperative associations or foreign cooperatives~~
3 ~~may agree to call a merger a consolidation under this [article].~~

4 ~~(b) All provisions governing mergers or using the term merger in this [act] apply equally~~
5 ~~to mergers that the constituent entities choose to call consolidations under subsection (a).~~

6 **~~SECTION 1612. [ARTICLE] NOT EXCLUSIVE.~~** This [article] does not prohibit a
7 ~~limited cooperative association from being converted or merged under law other than this [act].~~

8
9 **MERGER, INTEREST EXCHANGE, CONVERSION, AND DOMESTICATION**

10 **[PART] 1**

11 **GENERAL PROVISIONS**

12
13 **SECTION 1601. DEFINITIONS.** In this [article]:

14 (1) “Acquired entity” means the entity, all of one or more classes or series of interests in
15 which are acquired in an interest exchange.

16 (2) “Acquiring entity” means the entity that acquires all of one or more classes or series
17 of interests of the acquired entity in an interest exchange.

18 (3) “Conversion” means a transaction authorized by [part] 4.

19 (4) “Converted entity” means the converting entity as it continues in existence after a
20 conversion.

21 (5) “Converting entity” means the domestic entity that approves a plan of conversion
22 pursuant to Section 1643 or the foreign entity that approves a conversion pursuant to the law of its
23 jurisdiction of formation.

24 (6) “Distributional interest” means the right under an unincorporated entity’s organic law

1 to receive distributions from the entity.

2 (7) “Domestic”, with respect to a limited cooperative association, means governed as to
3 its internal affairs by the law of this state.

4 (8) “Domesticated limited cooperative association” means the domesticating limited
5 cooperative association as it continues in existence after a domestication.

6 (9) “Domesticating limited cooperative association” means the domestic limited
7 cooperative association that approves a plan of domestication pursuant to Section 1653 or the
8 foreign limited cooperative association that approves a domestication pursuant to the law of its
9 jurisdiction of formation.

10 (10) “Domestication” means a transaction authorized by [part] 5.

11 (11) “Entity”:

12 (A) means:

13 (i) a business corporation;

14 (ii) a nonprofit corporation;

15 (iii) a general partnership;

16 (iv) a limited partnership;

17 (v) a limited liability company;

18 [(vi) a general cooperative association;]

19 (vii) a limited cooperative association;

20 (viii) an unincorporated nonprofit association;

21 (ix) a statutory trust, business trust, or common-law business trust; or

22 (x) any other person that has a legal existence separate from any interest
23 holder of that person or that has the power to acquire an interest in real property in its own name;

1 and

2 (B) does not include:

3 (i) an individual;

4 (ii) a testamentary, inter vivos, or charitable trust, except a statutory trust,
5 business trust, or common-law business trust;

6 (iii) an association or relationship that is not a partnership solely by reason
7 of [Section 202(c) of the Revised Uniform Partnership Act] [Section 7 of the Uniform Partnership
8 Act] or a similar provision of the law of another jurisdiction;

9 (iv) a decedent's estate; [or]

10 (v) a government or a governmental subdivision, agency, or instrumentality
11 [: or] [.]

12 [(vi) a person excluded under Section 1609.]

13 (12) "Filing entity" means an entity that is formed by the filing of a public organic record.

14 (13) "Foreign" with respect to an entity, means an entity governed as to its internal affairs
15 by the laws of a jurisdiction other than this state.

16 (14) "Governance interest" means the right under the organic law or organic rules of an
17 unincorporated entity, other than as a governor, agent, assignee, or proxy, to:

18 (A) receive or demand access to information concerning, or the books and records
19 of, the entity;

20 (B) vote for the election of the governors of the entity; or

21 (C) receive notice of or vote on any issue involving the internal affairs of the
22 entity.

23 (15) "Governor" means:

1 (A) a director of a business corporation;
2 (B) a director or trustee of a nonprofit corporation;
3 (C) a general partner of a general partnership;
4 (D) a general partner of a limited partnership;
5 (E) a manager of a manager-managed limited liability company;
6 (F) a member of a member-managed limited liability company;
7 [(G) a director of a general cooperative association;]
8 (H) a director of a limited cooperative association;
9 (I) a manager of an unincorporated nonprofit association;
10 (J) a trustee of a statutory trust, business trust, or common-law business trust; or
11 (K) any other person under whose authority the powers of an entity are exercised
12 and under whose direction the activities and affairs of the entity are managed pursuant to the
13 organic law and organic rules of the entity.

14 (16) “Interest” means:

15 (A) a share in a business corporation;
16 (B) a membership in a nonprofit corporation;
17 (C) a partnership interest in a general partnership;
18 (D) a partnership interest in a limited partnership;
19 (E) a membership interest in a limited liability company;
20 [(F) a share in a general cooperative association;]
21 (G) a member’s interest in a limited cooperative association;
22 (H) a membership in an unincorporated nonprofit association;
23 (I) a beneficial interest in a statutory trust, business trust, or common-law business

1 trust;

2 (J) a governance interest in any other type of unincorporated entity; or

3 (K) a distributional interest in an unincorporated entity.

4 (17) “Interest holder” means:

5 (A) a shareholder of a business corporation;

6 (B) a member of a nonprofit corporation;

7 (C) a general partner of a general partnership;

8 (D) a general partner of a limited partnership;

9 (E) a limited partner of a limited partnership;

10 (F) a member of a limited liability company;

11 [(G) a shareholder of a general cooperative association;]

12 (H) a member of a limited cooperative association;

13 (I) a member of an unincorporated nonprofit association;

14 (J) a beneficiary of a statutory trust, business trust, or common-law business trust;

15 or

16 (K) any other direct holder of an interest.

17 (18) “Interest holder liability” means:

18 (A) personal liability for a liability of an entity that is imposed on a person:

19 (i) solely by reason of the status of the person as an interest holder; or

20 (ii) by the organic rules of the entity that make one or more specified

21 interest holders or categories of interest holders liable in their capacity as interest holders for all

22 or specified liabilities of the entity; or

23 (B) an obligation of an interest holder under the organic rules of an entity to

1 contribute to the entity.

2 (19) “Jurisdiction of formation” means the jurisdiction whose law includes the organic
3 law of an entity.

4 (20) “Merger” means a transaction in which two or more merging entities are combined
5 into a surviving entity pursuant to a filing with the [Secretary of State].

6 (21) “Merging entity” means an entity that is a party to a merger and exists immediately
7 before the merger becomes effective.

8 (22) “Organic law” means the law of an entity’s jurisdiction of formation governing the
9 internal affairs of the entity.

10 (23) “Organic rules” means the public organic record and private organic rules of an
11 entity.

12 (24) “Person” means an individual, business corporation, nonprofit corporation,
13 partnership, limited partnership, limited liability company, [general cooperative association,]
14 limited cooperative association, unincorporated nonprofit association, statutory trust, business
15 trust, or common-law business trust, estate, trust, association, joint venture, public corporation,
16 government or governmental subdivision, agency, or instrumentality, or any other legal or
17 commercial entity.

18 (25) “Plan” means a plan of merger, interest exchange, conversion, or domestication.

19 (26) “Private organic rules” mean the rules, whether or not in a record, that govern the
20 internal affairs of an entity, are binding on all of its interest holders, and are not part of its public
21 organic record, if any. The term includes:

22 (A) the bylaws of a business corporation;

23 (B) the bylaws of a nonprofit corporation;

1 (C) the partnership agreement of a general partnership;
2 (D) the partnership agreement of a limited partnership;
3 (E) the operating agreement of a limited liability company;
4 [(F) the bylaws of a general cooperative association;]
5 (G) the bylaws of a limited cooperative association;
6 (H) the governing principles of an unincorporated nonprofit association; and
7 (I) the governing instrument of a statutory trust, business trust, or common-law
8 business trust.

9 (27) “Protected agreement” means:

10 (A) a record evidencing indebtedness and any related agreement in effect on the
11 effective date of this [act];

12 (B) an agreement that is binding on an entity on the effective date of this [act];

13 (C) the organic rules of an entity in effect on the effective date of this [act]; or

14 (D) an agreement that is binding on any of the governors or interest holders of an
15 entity on the effective date of this [act].

16 (28) “Public organic record” means the record the filing of which by the [Secretary of
17 State] forms an entity and any amendment to or restatement of that record. The term includes:

18 (A) the articles of incorporation of a business corporation;

19 (B) the articles of incorporation of a nonprofit corporation;

20 (C) the certificate of limited partnership of a limited partnership;

21 (D) the certificate of organization of a limited liability company;

22 [(E) the articles of incorporation of a general cooperative association;]

23 (F) the articles of organization of a limited cooperative association; and

(G) the certificate of trust of a statutory trust or business trust.

(29) “Record” 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.

(30) “Registered foreign entity” means a foreign entity that is registered to do business or otherwise qualified in this state pursuant to a filing with the [Secretary of State].

(31) “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.

(32) “Surviving entity” means the entity that continues in existence after or is created by a merger.

(33) “Transfer” includes an assignment, conveyance, sale, lease, encumbrance, including by mortgaging or granting a security interest, gift, and transfer by operation of law.

(34) “Type of entity” means a generic form of entity:

(A) recognized at common law; or

(B) formed under an organic law, whether or not some entities formed under that organic law are subject to provisions of that law that create different categories of the form of entity.

Reporters' Note

Patterned after harmonized META § 102.

SECTION 1602. RELATIONSHIP OF [ARTICLE] TO OTHER LAWS.

This [article] does not authorize an act prohibited by, and does not affect the application
or requirements of, law other than this [article].

1 **Reporters' Note**

2 Patterned after harmonized META § 103(b).

3 **SECTION 1603. REQUIRED NOTICE OR APPROVAL.**

4
5 (a) A domestic or foreign entity that is required to give notice to, or obtain the approval
6 of, a governmental agency or officer in order to be a party to a merger must give the notice or
7 obtain the approval in order to be a party to an interest exchange, conversion, or domestication.

8 (b) Property held for a charitable purpose under the law of this state by a domestic or
9 foreign entity immediately before a transaction under this [article] becomes effective may not, as
10 a result of the transaction, be diverted from the objects for which it was donated, granted, or
11 devised unless, to the extent required by or pursuant to the law of this state concerning cy pres or
12 other law dealing with nondiversion of charitable assets, the entity obtains an appropriate order of
13 [name of court] [the attorney general] specifying the disposition of the property.

14 **Reporters' Note**

15 Patterned after harmonized META § 104.

16 **SECTION 1604. STATUS OF FILINGS.** A filing under this [article] signed by a
17 domestic entity becomes part of the public organic record of the entity if the entity's organic law
18 provides that similar filings under that law become part of the public organic record of the entity.

20 **Reporters' Note**

21 Patterned after harmonized META § 105.

22 **SECTION 1605. NONEXCLUSIVITY.** The fact that a transaction under this [article]
23 produces a certain result does not preclude the same result from being accomplished in any other
24 manner permitted by law other than this [article].

1 **Reporters' Note**

2 Patterned after harmonized META § 106.

3
4 **SECTION 1606. REFERENCE TO EXTERNAL FACTS.** A plan may refer to facts
5 ascertainable outside of the plan if the manner in which the facts will operate upon the plan is
6 specified in the plan. The facts may include the occurrence of an event or a determination or
7 action by a person, whether or not the event, determination, or action is within the control of a
8 party to the transaction.

9 **Reporters' Note**

10 Patterned after harmonized META § 107.

11
12 **SECTION 1607. ALTERNATIVE MEANS OF APPROVAL OF TRANSACTIONS.**

13 Except as otherwise provided in the organic law or organic rules of a domestic entity, approval of
14 a transaction under this [article] by the unanimous vote or consent of its interest holders satisfies
15 the requirements of this [article] for approval of the transaction.

16 **Reporters' Note**

17 Patterned after harmonized META § 108.

18
19 **SECTION 1608. APPRAISAL RIGHTS.**

20 (a) An interest holder of a domestic merging, acquired, or converting entity is entitled to
21 appraisal rights in connection with the transaction if the interest holder would have been entitled
22 to appraisal rights under the entity's organic law in connection with a merger in which the interest
23 of the interest holder was changed, converted, or exchanged unless:

24 (1) the organic law permits the organic rules to limit the availability of appraisal
25 rights; and

1 (2) the organic rules provide such a limit.

2 (b) An interest holder of a domestic merging, acquired, converting, or domesticating entity is
3 entitled to contractual appraisal rights in connection with a transaction under this [article] to the
4 extent provided:

5 (1) in the entity's organic rules; or

6 (2) in the plan.

7 **Reporters' Note**

8 Patterned after harmonized META § 109(a) and (b).

9
10 **[SECTION 1609. EXCLUDED ENTITIES AND TRANSACTIONS.]**

11 (a) The following entities may not participate in a transaction under this [act]:

12 (1)

13 (2)

14 (b) This [act] may not be used to effect a transaction that:

15 (1)

16 (2)

17 (3).]

18 **Reporters' Note**

19 Patterned after harmonized META § 110.

20 **[PART] 2**

21 **MERGER**

22
23 **SECTION 1621. MERGER AUTHORIZED.**

24 (a) Except as otherwise provided in this section, by complying with this [part]:

(1) one or more domestic limited cooperative associations may merge with one or more domestic or foreign entities into a domestic or foreign surviving entity; and

(2) two or more foreign entities may merge into a domestic limited cooperative association.

(b) Except as otherwise provided in this section, by complying with the provisions of this [part] applicable to foreign entities a foreign entity may be a party to a merger under this [part] or may be the surviving entity in such a merger if the merger is authorized by the law of the foreign entity's jurisdiction of formation.

[(c) The following entities may not participate in a merger under this [part]:

(1)

(2).1

Reporters' Note

Patterned after harmonized META § 201(a), (b), and (d).

SECTION 1622. PLAN OF MERGER.

(a) A domestic limited cooperative association may become a party to a merger under this
[part] by approving a plan of merger. The plan must be in a record and contain:

(1) as to each merging entity, its name, jurisdiction of formation, and type;

(2) if the surviving entity is to be created in the merger, a statement to that effect

and its name, jurisdiction of formation, and type;

(3) the manner of converting the interests in each party to the merger into interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing;

(4) if the surviving entity exists before the merger, any proposed amendments to

1 its public organic record or to its private organic rules that are, or are proposed to be, in a record;

2 (5) if the surviving entity is to be created in the merger, its proposed public
3 organic record, if any, and the full text of its private organic rules that are proposed to be in a
4 record;

5 (6) the other terms and conditions of the merger; and

6 (7) any other provision required by the law of a merging entity's jurisdiction of
7 formation or the organic rules of a merging entity.

8 (b) A plan of merger may contain any other provision not prohibited by law.

9 **Reporters' Note**

10 Patterned after harmonized META § 202.

11 **SECTION 1623. APPROVAL OF MERGER.**

12 (a) A plan of merger is not effective unless it has been approved:

13 (1) by a domestic merging limited cooperative association, by all of the interest
14 holders of the association entitled to vote on or consent to any matter; and

15 (2) in a record, by each member of a domestic merging limited cooperative
16 association that will have interest holder liability for debts, obligations and other liabilities that
17 arise after the merger becomes effective, unless:

18 (A) the bylaws of the limited cooperative association provides in a record
19 for the approval of a merger in which some or all of its members become subject to interest holder
20 liability by the vote or consent of fewer than all of the interest holders; and

21 (B) the member voted for or consented in a record to that provision of the
22 bylaws or became a member after the adoption of that provision.

23 (b) A merger involving a domestic merging entity that is not a limited cooperative
24

1 association is not effective unless the merger is approved by that entity in accordance with its
2 organic law.

3 (c) A merger involving a foreign merging entity is not effective unless the merger is
4 approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of
5 formation.

6 **Reporters' Note**

7 Subsections (a) is a simplified version of harmonized META § 203(a). Subsection (b) is
8 new and supplies some of the provisions of harmonized META § 203(a). Subsection (c) is
9 patterned after harmonized META § 203(b).

10 11 12 **SECTION 1624. AMENDMENT OR ABANDONMENT OF PLAN OF MERGER.**

13 (a) A plan of merger of a domestic merging limited cooperative association may be
14 amended:

15 (1) in the same manner as the plan was approved, if the plan does not provide for
16 the manner in which it may be amended; or

17 (2) by the directors or members in the manner provided in the plan, but a member
18 that was entitled to vote on or consent to approval of the merger is entitled to vote on or consent
19 to any amendment of the plan that will change:

20 (A) the amount or kind of interests, securities, obligations, rights to
21 acquire interests or securities, cash, or other property, or any combination of the foregoing, to be
22 received by the members of any party to the plan;

23 (B) the public organic record or private organic rules of the surviving
24 entity that will be in effect immediately after the merger becomes effective, except for changes
25 that do not require approval of the interest holders of the surviving entity under its organic law or
26 organic rules; or

1 (C) any other terms or conditions of the plan, if the change would
2 adversely affect the member in any material respect.

3 (b) After a plan of merger has been approved by a domestic merging limited cooperative
4 association and before a statement of merger becomes effective, the plan may be abandoned:

5 (1) as provided in the plan; or

6 (2) unless prohibited by the plan, in the same manner as the plan was approved.

7 (c) If a plan of merger is abandoned after a statement of merger has been delivered to the
8 [Secretary of State] for filing and before the statement becomes effective, a statement of
9 abandonment, signed by a merging entity, must be delivered to the [Secretary of State] for filing
10 before the statement of merger becomes effective. The statement of abandonment takes effect
11 upon filing, and the merger is abandoned and does not become effective. The statement of
12 abandonment must contain:

13 (1) the name of each merging or surviving entity that is a domestic limited
14 cooperative association or a qualified foreign entity;

15 (2) the date on which the statement of merger was delivered to the [Secretary of
16 State] for filing; and

17 (3) a statement that the merger has been abandoned in accordance with this
18 section.

19 **Reporters' Note**

20 Patterned after harmonized META § 204.

21 **SECTION 1625. STATEMENT OF MERGER; EFFECTIVE DATE.**

22 (a) A statement of merger must be signed by each merging entity and delivered to the
23 [Secretary of State] for filing.

1 (b) A statement of merger must contain:

2 (1) the name, jurisdiction of formation, and type of each merging entity that is not
3 the surviving entity;

4 (2) the name, jurisdiction of formation, and type of the surviving entity;

5 (3) a statement that the merger was approved by each domestic merging entity, if
6 any, in accordance with this [part] and by each foreign merging entity, if any, in accordance with
7 the law of its jurisdiction of formation;

8 (4) if the surviving entity exists before the merger and is a domestic filing entity,
9 any amendment to its public organic record approved as part of the plan of merger;

10 (5) if the surviving entity is created by the merger and is a domestic filing entity,
11 its public organic record, as an attachment;

12 (6) if the surviving entity is created by the merger and is a domestic limited
13 liability partnership, its [statement of qualification], as an attachment; and

14 (7) if the surviving entity is a foreign entity that is not a qualified foreign entity, a
15 mailing address to which the [Secretary of State] may send any process served on the [Secretary
16 of State] pursuant to Section 1626(e).

17 (c) In addition to the requirements of subsection (b), a statement of merger may contain
18 any other provision not prohibited by law.

19 (d) If the surviving entity is a domestic entity, its public organic record, if any, must
20 satisfy the requirements of the law of this state, except that it does not need to be signed and may
21 omit any provision that is not required to be included in a restatement of the public organic
22 record.

23 (e) A plan of merger that is signed on behalf of all of the merging entities and meets all of

1 the requirements of subsection (b) may be delivered to the [Secretary of State] for filing instead of
2 a statement of merger and upon filing has the same effect. If a plan of merger is filed as provided
3 in this subsection, references in this [article] to a statement of merger refer to the plan of merger
4 filed under this subsection.

5 **Reporters' Note**

6 Patterned after harmonized META § 205.

7 **SECTION 1626. EFFECT OF MERGER.**

8 (a) When a merger becomes effective:

9 (1) the surviving entity continues or comes into existence;

10 (2) each merging entity that is not the surviving entity ceases to exist;

11 (3) all property of each merging entity vests in the surviving entity without
12 transfer, reversion, or impairment;

13 (4) all debts, obligations and other liabilities of each merging entity are debts,
14 obligations and other liabilities of the surviving entity;

15 (5) except as otherwise provided by law or the plan of merger, all of the rights,
16 privileges, immunities, powers, and purposes of each merging entity vest in the surviving entity;

17 (6) if the surviving entity exists before the merger:

18 (A) all of its property continues to be vested in it without transfer,
19 reversion or impairment;

20 (B) it remains subject to all of its debts, obligations and other liabilities;

21 and

22 (C) all of its rights, privileges, immunities, powers, and purposes continue
23 to be vested in it;
24

1 (7) the name of the surviving entity may be substituted for the name of any
2 merging entity that is a party to any pending action or proceeding;

3 (8) if the surviving entity exists before the merger:

4 (A) its public organic record, if any, is amended as provided in the
5 statement of merger; and

6 (B) its private organic rules that are to be in a record, if any, are amended
7 to the extent provided in the plan of merger;

8 (9) if the surviving entity is created by the merger:

9 (A) its public organic record, if any, is effective; and

10 (B) its private organic rules are effective; and

11 (10) the interests in each merging entity that are to be converted in the merger are
12 converted, and the interest holders of those interests are entitled only to the rights provided to
13 them under the plan of merger and to any appraisal rights they have under Section 1608 and the
14 merging entity's organic law.

15 (b) Except as otherwise provided in the organic law or organic rules of a merging entity,
16 the merger does not give rise to any rights that an interest holder, governor, or third party would
17 otherwise have upon a dissolution, liquidation, or winding-up of the merging entity.

18 (c) When a merger becomes effective, a person that did not have interest holder liability
19 with respect to any of the merging entities and that becomes subject to interest holder liability
20 with respect to a domestic entity as a result of a merger has interest holder liability only to the
21 extent provided by the organic law of that entity and only for those debts, obligations and other
22 liabilities that arise after the merger becomes effective.

23 (d) When a merger becomes effective, the interest holder liability of a person that ceases

1 to hold an interest in a domestic merging entity with respect to which the person had interest
2 holder liability is as follows:

3 (1) the merger does not discharge any interest holder liability under the organic
4 law of the domestic merging entity to the extent the interest holder liability arose before the
5 merger became effective;

6 (2) the person does not have interest holder liability under the organic law of the
7 domestic merging entity for any liability that arises after the merger becomes effective;

8 (3) the organic law of the domestic merging entity continues to apply to the
9 release, collection, or discharge of any interest holder liability preserved under paragraph (1) as if
10 the merger had not occurred and the surviving entity were the domestic merging entity; and

11 (4) the person has whatever rights of contribution from any other person as are
12 provided by other law or the organic rules of the domestic merging entity with respect to any
13 interest holder liability preserved under paragraph (1) as if the merger had not occurred.

14 (e) When a merger becomes effective, a foreign entity that is the surviving entity:

15 (1) may be served with process in this state for the collection and enforcement of
16 any debts, obligations or other liabilities of a domestic merging entity; and

17 (2) appoints the [Secretary of State] as its agent for service of process for
18 collecting or enforcing those debts, obligations and other liabilities.

19 (f) When a merger becomes effective, the registration to do business or other foreign
20 qualification in this state of any foreign merging entity that is not the surviving entity is canceled.

21 **Reporters' Note**

22 Patterned after harmonized META § 206.

1 **[PART] 3**

2 **INTEREST EXCHANGE**

3
4 **SECTION 1631. INTEREST EXCHANGE AUTHORIZED.**

5 (a) Except as otherwise provided in this section, by complying with this [part]:

6 (1) a domestic limited cooperative association may acquire all of one or more
7 classes or series of interests of another domestic or foreign entity in exchange for interests,
8 securities, obligations, rights to acquire interests or securities, cash, or other property, or any
9 combination of the foregoing; or

10 (2) all of one or more classes or series of interests of a domestic limited
11 cooperative association may be acquired by another domestic or foreign entity in exchange for
12 interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or
13 any combination of the foregoing.

14 (b) Except as otherwise provided in this section, by complying with the provisions of this
15 [part] applicable to foreign entities a foreign entity may be the acquiring or acquired entity in an
16 interest exchange under this [part] if the interest exchange is authorized by the law of the foreign
17 entity's jurisdiction of formation.

18 (c) If a protected agreement contains a provision that applies to a merger of a domestic
19 limited cooperative association but does not refer to an interest exchange, the provision applies to
20 an interest exchange in which the domestic limited cooperative association is the acquired entity
21 as if the interest exchange were a merger until the provision is amended after the effective date of
22 this [act].

23 [(d) The following entities may not participate in an interest exchange under this [part]:

24 (1)

(2).1

Reporters' Note

Patterned after harmonized META § 301(a) – (c) and (e).

SECTION 1632. PLAN OF INTEREST EXCHANGE.

(a) A domestic limited cooperative association may be the acquired entity in an interest exchange under this [part] by approving a plan of interest exchange. The plan must be in a record and contain:

(1) the name of the acquired entity;

(2) the name, jurisdiction of formation, and type of the acquiring entity;

(3) the manner of converting the interests in the acquired entity into interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing;

(4) any proposed amendments to the articles of organization or bylaws that are, or
are proposed to be, in a record of the acquired entity;

(5) the other terms and conditions of the interest exchange; and

(6) any other provision required by the law of this state or the bylaws of the
acquired entity.

(b) A plan of interest exchange may contain any other provision not prohibited by law.

Reporters' Note

Patterned after harmonized META § 302.

SECTION 1633. APPROVAL OF INTEREST EXCHANGE.

(a) A plan of interest exchange is not effective unless it has been approved:

(1) by all of the interest holders of a domestic acquired limited cooperative association entitled to vote on or consent to any matter; and

(2) in a record, by each member of the domestic acquired limited cooperative association that will have interest holder liability for debts, obligations and other liabilities that arise after the interest exchange becomes effective, unless:

(A) the bylaws of the limited cooperative association provides in a record for the approval of an interest exchange or a merger in which some or all of its members become subject to interest holder liability by the vote or consent of fewer than all of the members; and

(B) the member voted for or consented in a record to that provision of the
bylaws or became a member after the adoption of that provision.

(b) An interest exchange involving a domestic acquired entity that is not a limited cooperative association is not effective unless it is approved by the domestic entity in accordance with its organic law.

(c) An interest exchange involving a foreign acquired entity is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

(d) Except as otherwise provided in its organic law or organic rules, the interest holders
of the acquiring entity are not required to approve the interest exchange.

Reporters' Note

Subsection (a) is a simplified version of harmonized META § 303(a). Subsection (b) is new and supplies some of the provisions of harmonized META § 303(a). Subsections (c) and (d) are patterned after harmonized META § 303(b) and (c).

1 **SECTION 1634. AMENDMENT OR ABANDONMENT OF PLAN OF INTEREST**

2 **EXCHANGE.**

3 (a) A plan of interest exchange of a domestic acquired limited cooperative association
4 may be amended:

5 (1) in the same manner as the plan was approved, if the plan does not provide for
6 the manner in which it may be amended; or

7 (2) by the directors or members of the limited cooperative association in the
8 manner provided in the plan, but an interest holder that was entitled to vote on or consent to
9 approval of the interest exchange is entitled to vote on or consent to any amendment of the plan
10 that will change:

11 (A) the amount or kind of interests, securities, obligations, rights to
12 acquire interests or securities, cash, or other property, or any combination of the foregoing, to be
13 received by any of the members of the acquired limited cooperative association under the plan;

14 (B) the articles of organization or bylaws of the acquired limited
15 cooperative association that will be in effect immediately after the interest exchange becomes
16 effective, except for changes that do not require approval of the members of the acquired limited
17 cooperative association under this Act or the bylaws; or

18 (C) any other terms or conditions of the plan, if the change would
19 adversely affect the member in any material respect.

20 (b) After a plan of interest exchange has been approved by a domestic acquired limited
21 cooperative association and before a statement of interest exchange becomes effective, the plan
22 may be abandoned:

23 (1) as provided in the plan; or

(2) unless prohibited by the plan, in the same manner as the plan was approved.

(c) If a plan of interest exchange is abandoned after a statement of interest exchange has been delivered to the [Secretary of State] for filing and before the statement becomes effective, a statement of abandonment, signed by the acquired limited cooperative association, must be delivered to the [Secretary of State] for filing before the statement of interest exchange becomes effective. The statement of abandonment takes effect upon filing, and the interest exchange is abandoned and does not become effective. The statement of abandonment must contain:

(1) the name of the acquired limited cooperative association;

(2) the date on which the statement of interest exchange was delivered to the
[Secretary of State] for filing; and

(3) a statement that the interest exchange has been abandoned in accordance with
this section.

Reporters' Note

Patterned after harmonized META § 304.

SECTION 1635. STATEMENT OF INTEREST EXCHANGE; EFFECTIVE DATE.

(a) A statement of interest exchange must be signed by a domestic acquired limited
cooperative association and delivered to the [Secretary of State] for filing.

(b) A statement of interest exchange must contain:

(1) the name of the acquired limited cooperative association;

(2) the name, jurisdiction of formation, and type of the acquiring entity;

(3) a statement that the plan of interest exchange was approved by the acquired
limited liability entity in accordance with this [part]; and

(4) any amendments to the acquired limited cooperative association's articles of organization approved as part of the plan of interest exchange.

(c) In addition to the requirements of subsection (b), a statement of interest exchange may contain any other provision not prohibited by law.

(d) A plan of interest exchange that is signed by a domestic acquired limited cooperative association and meets all of the requirements of subsection (b) may be delivered to the [Secretary of State] for filing instead of a statement of interest exchange and upon filing has the same effect. If a plan of interest exchange is filed as provided in this subsection, references in this [article] to a statement of interest exchange refer to the plan of interest exchange filed under this subsection.

Reporters' Note

Patterned after harmonized META § 305(a) – (d).

SECTION 1636. EFFECT OF INTEREST EXCHANGE.

(a) When an interest exchange in which the acquired entity is a domestic limited
cooperative association becomes effective:

(1) the interests in the domestic acquired entity that are the subject of the interest exchange cease to exist or are converted or exchanged, and the members holding those interests are entitled only to the rights provided to them under the plan of interest exchange and to any appraisal rights they have under Section 1608;

(2) the acquiring entity becomes the holder of the interests in the acquired entity

stated in the plan of interest exchange to be acquired by the acquiring entity;

(3) the articles of organization of the acquired entity are amended as provided in

the statement of interest exchange; and

(4) the provisions of the bylaws of the acquired entity that are to be in a record, if

1 any, are amended to the extent provided in the plan of interest exchange.

2 (b) Except as otherwise provided in the bylaws of a domestic acquired limited
3 cooperative association, the interest exchange does not give rise to any rights that a member,
4 director, or third party would otherwise have upon a dissolution, liquidation, or winding-up of the
5 acquired entity.

6 (c) When an interest exchange becomes effective, a person that did not have interest
7 holder liability with respect to a domestic acquired limited cooperative association and that
8 becomes subject to interest holder liability with respect to a domestic entity as a result of the
9 interest exchange has interest holder liability only to the extent provided by the organic law of the
10 entity and only for those debts, obligations and liabilities that arise after the interest exchange
11 becomes effective.

12 (d) When an interest exchange becomes effective, the interest holder liability of a person
13 that ceases to hold an interest in a domestic acquired limited cooperative association with respect
14 to which the person had interest holder liability is as follows:

15 (1) the interest exchange does not discharge any interest holder liability to the
16 extent the interest holder liability arose before the interest exchange became effective;

17 (2) the person does not have interest holder liability for any liability that arises
18 after the interest exchange becomes effective; and

19 (3) the person has whatever rights of contribution from any other person as are
20 provided by other law or the bylaws of the acquired entity with respect to any interest holder
21 liability preserved under paragraph (1) as if the interest exchange had not occurred.

22 **Reporters' Note**

23 Patterned after harmonized META § 306.

1
2 **[PART] 4**

3 **CONVERSION**

4
5 **SECTION 1641. CONVERSION AUTHORIZED.**

6 (a) Except as otherwise provided in this section, by complying with this [part], a domestic
7 limited cooperative association may become:

8 (1) a domestic entity of a different type; or

9 (2) a foreign entity of a different type, if the conversion is authorized by the law of
10 the foreign jurisdiction.

11 (b) Except as otherwise provided in this section, by complying with the provisions of this
12 [part] applicable to foreign entities a foreign entity that is not a foreign limited cooperative
13 association may become a domestic limited cooperative association if the conversion is
14 authorized by the law of the foreign entity's jurisdiction of formation.

15 (c) If a protected agreement contains a provision that applies to a merger of a domestic
16 limited cooperative association but does not refer to a conversion, the provision applies to a
17 conversion of the entity as if the conversion were a merger until the provision is amended after
18 the effective date of this [act].

19 [(d) The following entities may not engage in a conversion under this [part]:

20 (1)

21 (2).]

22 **Reporters' Note**

23 Patterned after harmonized META § 401.

1 **SECTION 1642. PLAN OF CONVERSION.**

2 (a) A domestic limited cooperative association may convert to a different type of entity
3 under this [part] by approving a plan of conversion. The plan must be in a record and contain:

4 (1) the name of the converting limited cooperative association;

5 (2) the name, jurisdiction of formation, and type of the converted entity;

6 (3) the manner of converting the interests in the converting limited cooperative
7 association into interests, securities, obligations, rights to acquire interests or securities, cash, or
8 other property, or any combination of the foregoing;

9 (4) the proposed public organic record of the converted entity if it will be a filing
10 entity;

11 (5) the full text of the private organic rules of the converted entity that are
12 proposed to be in a record;

13 (6) the other terms and conditions of the conversion; and

14 (7) any other provision required by the law of this state or the organic rules of the
15 converting limited cooperative association.

16 (b) A plan of conversion may contain any other provision not prohibited by law.

17 **Reporters' Note**

18 Patterned after harmonized META § 402.

19
20 **SECTION 1643. APPROVAL OF CONVERSION.**

21 (a) A plan of conversion is not effective unless it has been approved:

22 (1) by a domestic converting limited cooperative association by all of the
23 members of the limited cooperative association entitled to vote on or consent to any matter; and

24 (2) in a record, by each interest holder of a domestic converting limited

1 cooperative association that will have interest holder liability for debts, obligations and other
2 liabilities that arise after the conversion becomes effective:

3 (A) the bylaws of the limited cooperative association provides in a record
4 for the approval of a conversion or a merger in which some or all of its interest holders become
5 subject to interest holder liability by the vote or consent of fewer than all of the interest holders;
6 and

7 (B) the interest holder voted for or consented in a record to that provision
8 of the bylaws or became an interest holder after the adoption of that provision.

9 (b) A conversion involving a domestic converting entity that is not a limited cooperative
10 association is not effective unless it is approved by the domestic converting entity in accordance
11 with its organic law.

12 (c) A conversion of a foreign converting entity is not effective unless it is approved by the
13 foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

15 **Reporters' Note**

16 Subsection (a) is a simplified version of harmonized META § 403(a). Subsection (b) is
17 new and supplies some of the provisions of harmonized META § 403(a). Subsection (c) is
18 patterned after harmonized META § 403(b).

21 **SECTION 1644. AMENDMENT OR ABANDONMENT OF PLAN OF** 22 **CONVERSION.**

23 (a) A plan of conversion of a domestic converting limited cooperative association may be
24 amended:

25 (1) in the same manner as the plan was approved, if the plan does not provide for
26 the manner in which it may be amended; or

1 (2) by the managers or members of the entity in the manner provided in the plan,
2 but an interest holder that was entitled to vote on or consent to approval of the conversion is
3 entitled to vote on or consent to any amendment of the plan that will change:

4 (A) the amount or kind of interests, securities, obligations, rights to
5 acquire interests or securities, cash, or other property, or any combination of the foregoing, to be
6 received by any of the interest holders of the converting entity under the plan;

7 (B) the public organic record or private organic rules of the converted
8 entity that will be in effect immediately after the conversion becomes effective, except for
9 changes that do not require approval of the interest holders of the converted entity under its
10 organic law or organic rules; or

11 (C) any other terms or conditions of the plan, if the change would
12 adversely affect the interest holder in any material respect.

13 (b) After a plan of conversion has been approved by a domestic converting limited
14 cooperative association and before a statement of conversion becomes effective, the plan may be
15 abandoned:

16 (1) as provided in the plan; or

17 (2) unless prohibited by the plan, in the same manner as the plan was approved.

18 (c) If a plan of conversion is abandoned after a statement of conversion has been
19 delivered to the [Secretary of State] for filing and before the filing becomes effective, a statement
20 of abandonment, signed by the entity, must be delivered to the [Secretary of State] for filing
21 before the time the statement of conversion becomes effective. The statement of abandonment
22 takes effect upon filing, and the conversion is abandoned and does not become effective. The
23 statement of abandonment must contain:

(1) the name of the converting entity;

(2) the date on which the statement of conversion was delivered to the [Secretary

of State] for filing; and

(3) a statement that the conversion has been abandoned in accordance with this

section.

Reporters' Note

Patterned after harmonized META § 404.

SECTION 1645. STATEMENT OF CONVERSION; EFFECTIVE DATE.

(a) A statement of conversion must be signed by the converting entity and delivered to the

[Secretary of State] for filing.

(b) A statement of conversion must contain:

(1) the name, jurisdiction of formation, and type of the converting entity;

(2) the name, jurisdiction of formation, and type of the converted entity;

(3) if the converting entity is a domestic entity, a statement that the plan of

conversion was approved in accordance with this [part] or, if the converting entity is a foreign

entity, a statement that the conversion was approved by the foreign converting entity in

accordance with the law of its jurisdiction of formation;

(4) if the converted entity is a domestic filing entity, the text of its public organic

record, as an attachment;

(5) if the converted entity is a domestic limited liability partnership, the text of its

[statement of qualification], as an attachment; and

(6) if the converted entity is a foreign entity that is not a qualified foreign entity, a

mailing address to which the [Secretary of State] may send any process served on the [Secretary

1 of State] pursuant to Section 1646(e).

2 (c) In addition to the requirements of subsection (b), a statement of conversion may
3 contain any other provision not prohibited by law.

4 (d) If the converted entity is a domestic entity, its public organic record, if any, must
5 satisfy the requirements of the law of this state, except that it does not need to be signed and may
6 omit any provision that is not required to be included in a restatement of the public organic
7 record.

8 (e) A plan of conversion that is signed by a domestic converting entity and meets all of
9 the requirements of subsection (b) may be delivered to the [Secretary of State] for filing instead of
10 a statement of conversion and upon filing has the same effect. If a plan of conversion is filed as
11 provided in this subsection, references in this [article] to a statement of conversion refer to the
12 plan of conversion filed under this subsection.

13 **Reporters' Note**

14 Patterned after harmonized META § 405(a) – (e).

15 **SECTION 1646. EFFECT OF CONVERSION.**

16 (a) When a conversion in which the converted entity is a domestic limited cooperative
17 association becomes effective:

18 (1) the converted entity is:

19 (A) organized under and subject to the organic law of the converted entity;

20 and

21 (B) the same entity without interruption as the converting entity;

22 (2) all property of the converting entity continues to be vested in the converted
23 entity without transfer, reversion, or impairment;
24

1 (3) all debts, obligations and liabilities of the converting entity continue as debts,
2 obligations and liabilities of the converted entity;

3 (4) except as otherwise provided by law or the plan of conversion, all of the rights,
4 privileges, immunities, powers, and purposes of the converting entity remain in the converted
5 entity;

6 (5) the name of the converted entity may be substituted for the name of the
7 converting entity in any pending action or proceeding;

8 (6) if a converted entity is a filing entity, its public organic record is effective;

9 (7) if the converted entity is a limited liability partnership, its [statement of
10 qualification] is effective simultaneously;

11 (8) the private organic rules of the converted entity that are to be in a record, if
12 any, approved as part of the plan of conversion are effective; and

13 (9) the interests in the converting entity are converted, and the interest holders of
14 the converting entity are entitled only to the rights provided to them under the plan of conversion
15 and to any appraisal rights they have under Section 1608 and the converting entity's organic law.

16 (b) Except as otherwise provided in the bylaws of a domestic converting limited
17 cooperative association, the conversion does not give rise to any rights that a member, director, or
18 third party would otherwise have upon a dissolution, liquidation, or winding-up of the converting
19 entity.

20 (c) When a conversion becomes effective, a person that did not have interest holder
21 liability with respect to the converting entity and that becomes subject to interest holder liability
22 with respect to a domestic entity as a result of a conversion has interest holder liability only to the
23 extent provided by the organic law of the entity and only for those debts, obligations and

1 liabilities that arise after the conversion becomes effective.

2 (d) When a conversion becomes effective, the interest holder liability of a person that
3 ceases to hold an interest in a domestic limited cooperative association with respect to which the
4 person had interest holder liability is as follows:

5 (1) the conversion does not discharge any interest holder liability to the extent the
6 interest holder liability arose before the conversion became effective;

7 (2) the person does not have interest holder liability for any liability that arises
8 after the conversion becomes effective; and

9 (3) the person has whatever rights of contribution from any other person as are
10 provided by other law or the bylaws of the converting entity with respect to any interest holder
11 liability preserved under paragraph (1) as if the conversion had not occurred.

12 (e) When a conversion becomes effective, a foreign entity that is the converted entity:

13 (1) may be served with process in this state for the collection and enforcement of
14 any of its debts, obligations and liabilities; and

15 (2) appoints the [Secretary of State] as its agent for service of process for
16 collecting or enforcing those debts, obligations and liabilities.

17 (f) If the converting entity is a qualified foreign entity, the registration to do business or
18 other foreign qualification in this state of the converting entity is canceled when the conversion
19 becomes effective.

20 (g) A conversion does not require the entity to wind up its affairs and does not constitute
21 or cause the dissolution of the entity.

22 **Reporters' Note**

23 Patterned after harmonized META § 406.

1
2 **[PART] 5**

3 **DOMESTICATION**

4
5 **SECTION 1651. DOMESTICATION AUTHORIZED.**

6 (a) By complying with this [part], a domestic limited cooperative association may become
7 a foreign limited cooperative association if the domestication is authorized by the law of the
8 foreign jurisdiction.

9 (b) By complying with the provisions of this [part] applicable to foreign limited
10 cooperative associations a foreign limited cooperative association may become a domestic limited
11 cooperative association if the domestication is authorized by the law of the foreign limited
12 cooperative association's jurisdiction of formation.

13 (c) If a protected agreement contains a provision that applies to a merger of a domestic
14 limited cooperative association but does not refer to a domestication, the provision applies to a
15 domestication of the limited cooperative association as if the domestication were a merger until
16 the provision is amended after the effective date of this [act].

17 **Reporters' Note**

18 Patterned after harmonized META § 501(a) – (c).

19
20 **SECTION 1652. PLAN OF DOMESTICATION.**

21 (a) A domestic limited cooperative association may become a foreign limited cooperative
22 association in a domestication by approving a plan of domestication. The plan must be in a
23 record and contain:

24 (1) the name of the domesticating limited cooperative association;

25 (2) the name and jurisdiction of formation of the domesticated limited cooperative

1 association;

2 (3) the manner of converting the interests in the domesticating limited cooperative
3 association into interests, securities, obligations, rights to acquire interests or securities, cash, or
4 other property, or any combination of the foregoing;

5 (4) the proposed public organic record of the domesticated limited cooperative
6 association;

7 (5) the full text of the bylaws of the domesticated limited cooperative association
8 that are proposed to be in a record;

9 (6) the other terms and conditions of the domestication; and

10 (7) any other provision required by the law of this state or the bylaws of the
11 domesticating limited cooperative association.

12 (b) A plan of domestication may contain any other provision not prohibited by law.

13 **Reporters' Note**

14 Patterned after harmonized META § 502.

15 **SECTION 1653. APPROVAL OF DOMESTICATION.**

16 (a) A plan of domestication of a domestic domesticating limited cooperative association
17 is not effective unless it has been approved:

18 (1) by all of the members entitled to vote on or consent to any matter; and

19 (2) in a record, by each interest holder that will have interest holder liability for
20 debts, obligations and liabilities that arise after the domestication becomes effective, unless:

21 (A) the bylaws of the entity in a record provide for the approval of a
22 domestication or merger in which some or all of its interest holders become subject to interest
23 holder liability by the vote or consent of fewer than all of the interest holders; and
24

1 (B) the interest holder voted for or consented in a record to that provision
2 of the bylaws or became an interest holder after the adoption of that provision.

3 (b) A domestication of a foreign domesticating limited cooperative association is not
4 effective unless it is approved in accordance with the law of the foreign limited cooperative
5 association's jurisdiction of formation.

6 **Reporters' Note**

7 Subsection (a) is a simplified version of harmonized META § 503(a). Subsection (b) is
8 patterned after harmonized META § 503(b).

9
10 **SECTION 1654. AMENDMENT OR ABANDONMENT OF PLAN OF**
11 **DOMESTICATION.**

12 (a) A plan of domestication of a domestic domesticating limited cooperative association
13 may be amended:

14 (1) in the same manner as the plan was approved, if the plan does not provide for
15 the manner in which it may be amended; or

16 (2) by the directors or members of the limited cooperative association in the
17 manner provided in the plan, but an interest holder that was entitled to vote on or consent to
18 approval of the domestication is entitled to vote on or consent to any amendment of the plan that
19 will change:

20 (A) the amount or kind of interests, securities, obligations, rights to
21 acquire interests or securities, cash, or other property, or any combination of the foregoing, to be
22 received by any of the interest holders of the domesticating limited cooperative association under
23 the plan;

24 (B) the articles of organization or bylaws of the domesticated limited
25 cooperative association that will be in effect immediately after the domestication becomes

1 effective, except for changes that do not require approval of the interest holders of the
2 domesticated limited cooperative association under its organic law or bylaws; or

3 (C) any other terms or conditions of the plan, if the change would
4 adversely affect the interest holder in any material respect.

5 (b) After a plan of domestication has been approved by a domestic domesticating limited
6 cooperative association and before a statement of domestication becomes effective, the plan may
7 be abandoned:

8 (1) as provided in the plan; or

9 (2) unless prohibited by the plan, in the same manner as the plan was approved.

10 (c) If a plan of domestication is abandoned after a statement of domestication has been
11 delivered to the [Secretary of State] for filing and before the filing becomes effective, a statement
12 of abandonment, signed by the domesticating limited cooperative association, must be delivered
13 to the [Secretary of State] for filing before the time the statement of domestication becomes
14 effective. The statement of abandonment takes effect upon filing, and the domestication is
15 abandoned and does not become effective. The statement of abandonment must contain:

16 (1) the name of the domesticating limited cooperative association;

17 (2) the date on which the statement of domestication was delivered to the
18 [Secretary of State] for filing; and

19 (3) a statement that the domestication has been abandoned in accordance with this
20 section.

21 **Reporters' Note**

22 Patterned after harmonized META § 504.

1 **SECTION 1655. STATEMENT OF DOMESTICATION; EFFECTIVE DATE.**

2 (a) A statement of domestication must be signed by the domesticating limited cooperative
3 association and delivered to the [Secretary of State] for filing.

4 (b) A statement of domestication must contain:

5 (1) the name and jurisdiction of formation of the domesticating limited
6 cooperative association;

7 (2) the name and jurisdiction of formation of the domesticated limited cooperative
8 association;

9 (3) if the domesticating limited cooperative association is a domestic limited
10 cooperative association, a statement that the plan of domestication was approved in accordance
11 with this [part] or, if the domesticating limited cooperative association is a foreign limited
12 cooperative association, a statement that the domestication was approved in accordance with the
13 law of its jurisdiction of formation;

14 (4) the articles of organization of the domesticated limited cooperative
15 association, as an attachment; and

16 (5) if the domesticated foreign limited cooperative association is not a registered
17 foreign limited cooperative association, a mailing address to which the [Secretary of State] may
18 send any process served on the [Secretary of State] pursuant to Section 1656(e).

19 (c) In addition to the requirements of subsection (b), a statement of domestication may
20 contain any other provision not prohibited by law.

21 (d) The articles of organization of a domesticated domestic limited cooperative
22 association must satisfy the requirements of the law of this state, except that it does not need to
23 be signed.

(e) A plan of domestication that is signed by a domesticating domestic limited
cooperative association and meets all of the requirements of subsection (b) may be delivered to
the [Secretary of State] for filing instead of a statement of domestication and upon filing has the
same effect. If a plan of domestication is filed as provided in this subsection, references in this
[article] to a statement of domestication refer to the plan of domestication filed under this
subsection.

Reporters' Note

Patterned after harmonized META § 505(a) – (e).

SECTION 1656. EFFECT OF DOMESTICATION.

(a) When a domestication becomes effective:

(1) the domesticated limited cooperative association is:

(A) organized under and subject to the organic law of the domesticated
limited cooperative association; and

(B) the same entity without interruption as the domesticating limited
cooperative association;

(2) all property of the domesticating limited cooperative association continues to
be vested in the domesticated entity without transfer, reversion, or impairment;

(3) all debts, obligations, and liabilities of the domesticating limited cooperative
association continue as debts, obligations, and liabilities of the domesticated limited cooperative
association;

(4) except as otherwise provided by law or the plan of domestication, all of the rights, privileges, immunities, powers, and purposes of the domesticating limited cooperative association remain in the domesticated limited cooperative association;

1 (5) the name of the domesticated limited cooperative association may be
2 substituted for the name of the domesticating limited cooperative association in any pending
3 action or proceeding;

4 (6) the articles of organization of the domesticated limited cooperative association
5 is effective;

6 (7) the provisions of bylaws of the domesticated limited cooperative association
7 that are to be in a record, if any, approved as part of the plan of domestication are effective; and

8 (8) the interests in the domesticating limited cooperative association are converted
9 to the extent and as approved in connection with the domestication, and the interest holders of the
10 domesticating limited cooperative association limited cooperative association are entitled only to
11 the rights provided to them under the plan of domestication and to any appraisal rights they have
12 under Section 1608.

13 (b) Except as otherwise provided in the organic law or bylaws of the domesticating
14 limited cooperative association, the domestication does not give rise to any rights that an interest
15 holder, director, or third party would otherwise have upon a dissolution, liquidation, or winding-
16 up of the domesticating limited cooperative association.

17 (c) When a domestication becomes effective, a person that did not have interest holder
18 liability with respect to the domesticating limited cooperative association and that becomes
19 subject to interest holder liability with respect to a domestic entity as a result of the domestication
20 has interest holder liability only to the extent provided by the organic law of the entity and only
21 for those debts, obligations and other liabilities that arise after the domestication becomes
22 effective.

23 (d) When a domestication becomes effective:

(1) the domestication does not discharge any interest holder liability under this [act] to the extent the interest holder liability arose before the domestication became effective;

(2) a person does not have interest holder liability under this [act] for any debts, obligations, and liabilities that arise after the domestication becomes effective;

(3) a person has whatever rights of contribution from any other person as are provided by other law or the bylaws of a domestic domesticating limited cooperative association with respect to any interest holder liability preserved under paragraph (1) as if the domestication had not occurred.

(e) When a domestication becomes effective, a foreign limited cooperative association that is the domesticated limited cooperative association:

(1) may be served with process in this state for the collection and enforcement of
any of its debts, obligations, and liabilities; and

(2) appoints the [Secretary of State] as its agent for service of process for
collecting or enforcing those debts, obligations and liabilities.

(f) If the domesticating limited cooperative association is a registered foreign limited cooperative association, the registration of the limited cooperative association is canceled when the domestication becomes effective.

(g) A domestication does not require the limited cooperative association to wind up its
affairs and does not constitute or cause the dissolution of the limited cooperative association.

Reporters' Note

Patterned after harmonized META § 506.

1 [ARTICLE] 17

2 MISCELLANEOUS PROVISIONS

3
4 **SECTION 1701. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In**

5 applying and construing this uniform act, consideration must be given to the need to promote
6 uniformity of the law with respect to its subject matter among states that enact it.

7 **SECTION 1702. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL**
8 **AND NATIONAL COMMERCE ACT.** This [act] modifies, limits, or supersedes the federal
9 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but
10 does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c) or
11 authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15
12 U.S.C. Section 7003(b).

13 **SECTION 1703. SAVINGS CLAUSE.** This [act] does not affect an action or
14 proceeding commenced, or right accrued, before [the effective date of this [act]].

15 **SECTION 1704. EFFECTIVE DATE.** This [act] takes effect [effective date].