

D R A F T

FOR DISCUSSION ONLY

**UNIFORM LIMITED COOPERATIVE  
ASSOCIATION ACT**

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NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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For Drafting Committee Meeting March 9-11, 2007  
*With Changes Incorporated*

*WITH PREFATORY NOTE AND WITHOUT REPORTERS' NOTES*

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NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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February 7, 2007

**DRAFTING COMMITTEE ON  
UNIFORM LIMITED COOPERATIVE ASSOCIATION ACT**

The Committee appointed by and representing the National Conference of Commissioners on Uniform State Laws in drafting this Act consists of the following individuals:

PETER F. LANGROCK, P.O. Drawer 351, Middlebury, VT 05753, *Chair*  
LYLE W. HILLYARD, 175 E. 1st N., Logan, UT 84321  
GENE N. LEBRUN, P.O. Box 8250, 909 St. Joseph St., Suite 900, Rapid City, SD 57709  
REED L. MARTINEAU, P.O. Box 45000, 10 Exchange Pl., Salt Lake City, UT 84145  
JAMES R. PENDER, 4001 N. Rodney Parham Rd., Suite 101, Little Rock, AR 72211  
MARILYN E. PHELAN, Texas Tech University, School of Law, 1802 Hartford, Lubbock, TX 79409  
HIROSHI SAKAI, 3773 Diamond Head Circle, Honolulu, HI 96815  
KEVIN P. H. SUMIDA, 735 Bishop St., Suite 411, Honolulu, HI 96813  
JAMES B. DEAN, 4155 E. Jewell Ave., Suite 703, Denver, CO 80222, *Associate Reporter*  
THOMAS E. GEU, University of South Dakota, School of Law, 414 E. Clark St., Suite 214, Vermillion, SD 57069-2390, *Reporter*

**EX OFFICIO**

HOWARD J. SWIBEL, 120 S. Riverside Plaza, Suite 1200, Chicago, IL 60606, *President*  
LEVI J. BENTON, State of Texas, 201 Caroline, 13<sup>th</sup> Floor, Houston, TX 77002, *Division Chair*

**AMERICAN BAR ASSOCIATION ADVISOR**

CRAIG A. HOUGHTON, 5260 N. Palm, Suite 421, Fresno, CA 93704

**EXECUTIVE DIRECTOR**

JOHN A. SEBERT, 211 E. Ontario St., Suite 1300, Chicago, IL 60611, *Executive Director*

Copies of this Act may be obtained from:

NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS  
211 E. Ontario Street, Suite 1300  
Chicago, Illinois 60611  
312/915-0195  
[www.nccusl.org](http://www.nccusl.org)

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# UNIFORM LIMITED COOPERATIVE ASSOCIATION ACT

## Prefatory Note

(1) This Draft attempts to provide an unincorporated and flexible organizational structure buttressed and combined with cooperative principles and values in order to obtain an increased equity investment opportunity necessary for both capital intensive and start-up businesses. It is an alternative to other cooperative and unincorporated structures already available under state laws.

It attempts to provide a flexible breastwork of mandatory and default rules that are grounded in cooperative values and participant governance. Nonetheless, the flexibility in this draft is not necessarily “hard-wired” such that it will in all cases be qualified as a cooperative, for example, under definitions of “cooperative” for various federal law provisions. *See generally* (3), *infra*.

To the extent it is already possible to qualify as a “cooperative” for federal purposes without being organized as a state law cooperative, other flexible forms of business organizations, like the LLC, may be used for cooperative purposes. This Draft, however, provides an efficient default template that encourages planners to utilize tested cooperative principles for a broad range of entities and purposes.

## (2) Introduction and Process

### (a) Freestanding and Nonexclusive Nature of the Act

The Committee is charged with drafting a Limited Cooperative Association Act. ***The Act is to be a free-standing act separate and apart from current cooperative acts and, therefore, is not a statutory replacement of other law but; rather, another statutory option for organizing cooperatives as a way to encourage economic development.***

It is important to remember that this act does not replace any existing state co-op laws and, therefore, fulfills a different niche in the cooperative economic ecosystem. Thus, some provisions will be different than the more corporate-like framework of existing traditional statutes. It is intended to provide a cooperative structure as an alternative to the LLC; and, in some ways, “investor members” are similar to limited partners in a limited partnership. It seeks to provide an alternative which accounts for cooperative principles to a *greater* extent, with *less* room for design abuse than can be engineered in a combination of entities. Nonetheless, though some features of the cooperative association are very similar to the features of other entities and descriptive analogies to other entities may be helpful, it is imperative to understand that the cooperative association is a unique entity with important distinctions from each of the other entities to which it is often compared.

An overarching question raised by this project, and discussed at the Drafting Committee meetings, is what it means to be a cooperative. Older traditional statutes have found meaning and form by finding the definition of a cooperative in other law or by stating that the cooperative must be operated pursuant to a “cooperative plan,” a term that is undefined and without fixed meaning even within the industry. As a practical matter, perhaps, the most important definition of “cooperative” appears under the guise of the definition of operating on a “cooperative basis” found in federal income tax law. A brief illustrative discussion of some of those definitions is contained in the next part of this preliminary note (“Cooperatives: Background Information”).

The definitions of these terms have had a modicum of “evolvability” over time, at least on the margin (and concerning select issues). For example, the Service threw in the towel on the issue of whether operating on a cooperative basis required more than 50 percent of the cooperative's business be done with members on a patronage basis. (Rev. Rul. 93-21, 1993-1 C.B. 188, stating that the 50 percent threshold is not necessary). Further a frequently quoted passage from a *dissent* written by Justice Brandeis (and joined by Holmes) stated:

That no one plan of organization is to be labeled as truly co-operative to the exclusion of others was recognized by Congress in connection with co-operative banks and building and loan associations [citation omitted]. With the expansion of agricultural co-operatives it has been recognized repeatedly.

*Frost v. Corporation Comm. (Oklahoma)*, 278 U.S. 515 (1929) (Brandeis, J., dissenting, Westlaw p. 14).

Brandeis, as of 1929, also stated:

And experts in the Department of Agriculture, charged with disseminating information to farmers and legislatures, have warned against any crystallization of the co-operative plan, so as to exclude any type of co-operation.

The genesis of the project was the enactment of the “Wyoming Processing Cooperative Law” in 2001 and the “Minnesota Cooperative Associations Act” in 2003. The Province of Saskatchewan enacted an Act for similar purposes that predated the Wyoming law, but that act took a significantly different approach. Tennessee, Iowa and Wisconsin have enacted statutes based on the Minnesota Act. Similar legislation was introduced in Vermont and Missouri but not passed. Nebraska has been studying an act and it may be introduced in 2007.

The Committee’s scope was originally limited to “Agriculture and Agriculture Related” purposes. In effect, neither the Iowa nor Minnesota Acts are limited to agriculture.

## **(b) Cooperative Values**

The Committee has carefully considered traditional cooperative values and has made every reasonable attempt to integrate them into this draft as either mandates or default rules. This represents a more explicit design than current state cooperative law. The attention to cooperative values was necessary because the project expressly contemplates the addition of investor members (beyond nonvoting preferred stock as has long been available to cooperatives under existing state law).

The addition of investor members, however, is one of extent and not kind. As explained later in this preliminary note, one cooperative value is democratic member control. This, at base, means that those *using* the cooperative control it. Member control remains an important part of this draft even though it allows for investor members. There has long been, however; even if ignored, an economic trade-off in cooperatives between equity and control and this act and those state laws on which it is based attempts to recognize and quantify this trade-off.

All businesses, including cooperatives, continually monitor and balance equity structure; which unavoidably includes both long-term debt and equity. Creditors, too, exert control over decisions. Express covenants and “deemed insecure” clauses represent control by the creditor, no matter of the identity of the creditor (e.g., secondary market standards and requirements in some co-op sectors). Further, even under Capper-Volstead, preferred equity capital may demand a high fixed rate of return as long as all patron members have “one vote.” This act is an attempt to reduce fixed costs associated with debt and preferred equity for purposes of economic development.

There are several formulations of “cooperative principles.” As a matter of general consensus they include voluntary and open membership; democratic member control; member economic participation; autonomy and independence; education, training and information; cooperation among cooperatives; and, concern for community. This draft contains specific provisions that contemplate these values.

One of the fulcrums regarding cooperative values in this draft is Section 104, captioned “Nature of Limited Cooperative Association.” It addresses the values of voluntary membership, member economic participation, and autonomy and independence. Again, autonomy must be placed within the practical context of long-term debt and equity. Voluntary membership remains voluntary in the sense that this act requires consent. Open membership has been compromised under similar existing law and remains so here in order to allow (but not require) the formation of “closed” cooperatives. Closed cooperative structure is necessary for patron members to share the increased value of their equity and to provide member liquidity. These features make a business formed in general conformance with other cooperative values more attractive.

Section 904, captioned “Allocations of Profits and Losses,” expressly provides for the values of member economic participation; education, training and information; and cooperation

among cooperatives. One of the trade-off concerns “democratic member control.” Sections 411(a), 412, 414, 704 and 716(a) all concern this trade-off.

“Concern for community” is directly addressed in Section 720 which varies the law generally applicable to; for example, corporate directors, to allow the directors of a limited cooperative to consider a number of community constituencies in making decisions.

In sum, this draft expressly considers the important traditional cooperative values and provides reasoned departures from those values only where economically necessary. Its intention is to expand the use of entities recognizing cooperative principles.

Finally, this draft is flexible enough to form a limited cooperative which operates like a traditional cooperative. It is the Committee’s understanding that several such cooperatives have formed under the Minnesota act, one of this act’s predecessors.

### **(3) Cooperatives: General Background Information**

Traditionally, cooperatives have been organized as corporations under State laws specifically enacted to authorize the creation of businesses operated on a cooperative basis. The statutes direct organizers to follow so-called cooperative principles of user-control, user-benefit, and user-ownership. Voting rights are only available to patron-users of the cooperative’s services and earnings are allocated to patrons on the basis of use, rather than on the basis of investment. Member-patrons are the primary source of equity, which is accumulated over time in the form of retained earnings allocated to equity accounts of the patrons on the basis of each patron’s pro rata share of business conducted each year with the cooperative. No market exists for this equity and it is usually only redeemable at face value by the cooperative at the discretion of the cooperative’s board of directors.

The new cooperative acts (Wyoming, Minnesota, Tennessee, and Iowa) on which this project is based are sometimes known as “New Generation Cooperative” (“NGC”) acts though that name has not gained a precise technical meaning and one of the primary reasons for this project is to attempt to gain a measure of uniformity between and among limited cooperative association acts as they are adopted by the states and to provide as well-drafted and considered an act as reasonably possible.

In fact, a new cooperative model gained some popularity, particularly in the Upper Midwest starting in the 1970’s. The features that distinguish *these* “New Generation” cooperatives from traditional cooperatives include: (1) a new equity accumulation program based on substantial upfront investments by patron-members, (2) a tie-in between equity investment and the right and obligation to deliver a fixed quantity of product to the cooperative each year, and (3) a right of patron-members to transfer their equity to another person eligible to become a patron-member at whatever price is acceptable to both parties. While traditional cooperatives usually seek to maximize membership, New Generation cooperatives are “closed-end” with a

limited number of members.

While New Generation cooperatives involve some significant departures from traditional cooperative structure, they have been organized under traditional cooperative statutes. Thus they have limited voting rights to patron-users and allocated earnings to users based on use.

The new cooperative acts on which this project is based are sometimes known as “LLC-Cooperative” laws though that name has not gained a precise technical meaning. The forerunners to this project differ in several important ways from traditional cooperative laws. First, the entities created are unincorporated associations. Thus they have the option, under the Internal Revenue Service check-the-box regulations, to be taxed as partnerships rather than as cooperative associations. Second, up to 85 percent of the voting rights can be vested in non-patron investor members. And third, up to 85 percent of the earnings can be directed to non-patron investor members on the basis of investment. The stated purpose of those laws, as well as this project, is to provide a vehicle for economic development (especially, though by no means exclusively in rural areas).

The new cooperative acts are more flexible than traditional cooperative acts and such flexibility moves away from fail-safe statutory drafting for purposes of qualifying as a “cooperative” under other federal and state laws and regulations. The primary “other laws” are anti-trust law, taxation, securities law, and access to special cooperative loan provisions and institutions like the Farm Credit System.

An example of how other laws relate to the law of cooperatives is the Capper-Volstead Act of 1922. Without the Capper-Volstead Act, the Sherman Act of 1890 would apply to make most farmer marketing contracts with cooperatives *per se* illegal restraints of trade because the contracts fix prices. That is, when farmers market products through cooperatives they agree on prices they will charge and may agree to sell *exclusively* to the cooperative. The Capper-Volstead Act provides limited, but important protection from the Sherman Act. In order for a cooperative to qualify for the protection: (1) only agricultural producers may be voting members; (2) the cooperative must be operated for the mutual benefit of members as producers; (3) no member may have more than one vote *or* dividends on stock may not exceed 8% per year; and (4) the value of products marketed for members must be greater than the value of products marketed for nonmembers. Many traditional state agricultural (and general purpose) cooperative statutes “hard-wire” compliance with Capper-Volstead by, for example, mandating the 8% dividend limit on equity. The LLC-Cooperative statutes, on the other hand, follow the general trend in unincorporated statutes by allowing a cooperative to *decide* whether to qualify for the antitrust protection provided by the Capper-Volstead Act. Thus, the 8% dividend limitation is not mandated by the LLC-Cooperative statutes.

Similarly, the federal income tax law as of 2006 delineates requirements that associations must meet to qualify for taxation under Subchapter T of the Internal Revenue Code (patronage refunds not taxable at the cooperative level). The Code further delineates more requirements to

qualify for tax treatment under Section 521 (for *farmer* cooperatives with additional tax benefits) as of 2006. Qualification for cooperative taxation, however, is inconsistent with tax treatment as a partnership. Thus, the LLC-Cooperative model allows flexibility for the organization to be taxed as a partnership or as a cooperative as the organization itself chooses. The LLC-Cooperative statutes enacted to date are an option to, not a replacement for, existing cooperative laws.

The Drafting Committee was established by the Conference at the 2003 Annual Meeting pursuant to a Study Report and met for the first time December 12-14, 2003. It has met each Spring and Fall since then. The first meeting of the Drafting Committee discussed substantive and general drafting and formatting issues, including the level of detail appropriate for the act and used the “Wyoming Processing Cooperative Law” as a model. The Committee determined that a higher level of detail than that found in the Wyoming law, following the general “look and feel” of general and traditional cooperative acts, was appropriate. Discussion at subsequent Drafting Committee meetings focused on substantive issues within the context of a draft closely following the Minnesota Cooperative Associations Act which integrated some of the substantive discussion from the first meeting.

The Drafting Committee was originally asked to prepare a “Uniform Agricultural and Agricultural Related Cooperatives Act.” However, at the 2006 NCCUSL Annual Meeting, the charge was amended to draft a “Uniform Limited Cooperative Association Act.” Thus the scope of the project was arguably expanded from a law targeted at agricultural cooperatives to one available to a wide range of enterprises. The reason for the change in scope sounded in both technical drafting issues and policy. *First*, the Conference struggled for nearly two years to devise a definition of “Agricultural and Agricultural Related” that was precise yet not both over and under inclusive. From that limited perspective the change in scope can be seen as a change in “inclusive/permissive” to “exclusive/prohibited” or, stated another way, from a positive to a negative definition. The foregoing change in approach was to remove ambiguity from the draft. *Second*, it was difficult to articulate a reasoned policy statement concerning why the project should be limited to “agricultural,” no matter how defined. *Finally*, the leading cooperative association laws as they currently exist were not limited to “agricultural” uses even though some notion of “agricultural” remains included in their names. Thus, attempting to limit the application of the project to “agricultural” was inconsistent with existing acts and cast doubt about whether NCCUSL could succeed its overarching organizational mission encouraging uniformity in state laws.

The current draft is the result of efforts by the Committee to move in this direction. The Committee has had only limited opportunity to discuss the specific language of this draft and continues to discuss the appropriateness of exclusions, if any from the draft.

#### **(4) Further Background on Flexibility and Current Non-Law Constraints**

In numerous discussions of the Committee, it has been observed that it is important for

Limited Cooperative Associations that would be created under the Uniform Limited Cooperative Association Act (the “Act”) to maintain qualification or exemption status available to traditional cooperative organizations. This discussion is intended to focus those issues without being an in-depth research report regarding any of them. It will identify some of the relevant federal statutes and pose an issue under each of them and will provide, as an example, more discussion of the application of Subchapter T of the Internal Revenue Code as a prototypical analytical approach undertaken under other federal statutes.

Despite a desire on the part of some people to try to preserve qualification or exemption requirements for purposes of other law (non-state) for Limited Cooperative Associations under the Act, some have suggested that is not likely to happen with organizations organized under the Act. A bit of research suggests there are reasons to believe there exists (to some degree) mitigating conditions that narrow the concerns that associations formed under the Act will be unable to meet the qualification requirements for co-ops under other law.

This part of the Preliminary Note focuses, for illustration, on the question of whether an entity will qualify for a qualification or exemption under statutes based on the quantity of business done by the entity with members and patrons. It does not look at other requirements for qualification or exemption, such as whether the entity is required to allocate and distribute patronage refunds, whether the entity has one member-one vote, whether the entity must be involved in agriculture and its members be agricultural producers, whether patron members are the only ones allowed to vote or whether an entity must be a corporation.

The following five (5) statutes have a quantitative requirement:

(1) 7 U.S.C. § 291 (quantitative requirement in definition of cooperative in Capper-Volstead federal antitrust exemption);

(2) 12 U.S.C. § 1141j(a) (quantitative requirement in definition of cooperative for farm credit purposes);

(3) 12 U.S.C. § 2129 (quantitative requirement in definition of cooperative for borrowing from bank for cooperatives);

(4) 49 U.S.C. § 303(b) (quantitative requirement in definition of cooperative for ICC exemption); and

(5) 12 U.S.C. § 3015 (§105 (a), Pub.L. 95-351, 92 Stat. 499, 506 (August 20, 1978)) (quantitative requirement in definition of cooperative in National Consumer Cooperative Bank Act).

(Taken from *Conway County Farmers Association v. U.S.*, 588 F.2d 592, 1978 U.S. App. LEXIS 7273, 78-2 U.S. Tax Cas. (CCH) P9840, 42 A.F.T.R. 2d (RIA) 6323.)

Generally, each of the listed statutes require the association to conduct a specified quantity of business (usually more than 50%) with members and/or patrons than with non-members to be a “cooperative” for purposes of the statute.

Thus, if a Limited Cooperative Association were structured and operated to meet the required quantitative amount of business with members/patrons, it would meet the qualification. *For this purpose only*, outside investment in the entity is not relevant although such investment may be relevant for voting requirements or other requirements.

From a federal income tax standpoint, the Internal Revenue Service took the position that to be “a corporation operating on a cooperative basis” under Subchapter T (§1381(a)(2)) required the corporation to conduct more business with members and patrons than with non-members. Rev. Rul. 72-602, 1972-2 Cum. Bull. 511. The Service did not prevail on this requirement in three cases: *Conway County Farmers Ass’n v. U.S.*, 588 F.2d 592 (8<sup>th</sup> Cir. 1978); *Columbus Food & Veg. Coop v. U.S.*, 7 Claims Ct. 561 (1985); *Geauga Landmark, Inc. v. U.S.*, #81-942 (Nor. Dist. Ohio 1985).

As a result, the Service dropped this requirement and has said the “member/patron” portion of a cooperative corporation’s business (and patronage refunds resulting from it) could receive patronage refund treatment under Subchapter T but the net profits/losses from the non-member/patron business would be taxable in the same manner as a non-cooperative corporation.

“Whether a nonexempt cooperative is entitled to the benefits of Subchapter T depends upon the finding that it is ‘operating on a cooperative basis’ under 26 U.S.C. § 1381 (a)(2).” *Geauga Landmark, Inc.*, *supra*. This determination obviously needs to be made on a case by case factual basis.

The point of this is the Cooperative Association Act could hardwire results for certain other law but in doing so it could eliminate the flexibility of the statute. It is likely the ultimate results under other will need to be left to practitioners and users of the Act to craft structures that will obtain the benefits of various other statutes as desired. This may require knowledge and skill and leave a trap for the unwary, but to accomplish one of the primary goals of the Act, this may be necessary. It may ultimately require administrative determinations and rulings for final guidance in specific instances.

## **(5) Overview of this Draft**

This draft draws from other organizational law including the Uniform Limited Partnership Act (2001), limited liability company acts, the Minnesota Cooperative Associations Act, several modern “traditional” cooperative acts (specifically including, without limitation: Colorado, Ohio, Oregon, and Wisconsin), and the Model Business Corporation Act.

Even though the draft relies, in part, on general organizational law outside cooperatives, it



makes every reasonable attempt to acknowledge the fact that cooperatives are a different kind of organization legally, historically, and functionally and that limited cooperative associations, in turn, add a dimension to traditional cooperatives. Thus, for example, this draft has a strong participant/member focus. Illustratively, the bylaws must be amended by members and not the board of directors which is somewhat unusual even in cooperative law. The specific size and purpose of the cooperatives contemplated by this act, however, support the member focus. Moreover, unlike the trend in corporate law, this draft generally requires supermajority voting of members on fundamental matters.

On the other hand, this draft provides more flexibility for attracting capital from outside the community of users and gives cooperatives the authority to erode producer capital lock-in in its organic rules. Thus, it allows wide latitude for both patron members/participants (*e.g.* producers/users of the cooperative) and investor member/participants, within limitations, to provide for the sharing of net proceeds, surplus, or profit and governance participation between patron and investor member/participants. The constraints on investor member participation in this draft are tighter than those found in most, if not all, the “new generation” cooperative statutes. This clearly distinguishes this cooperative draft from limited liability company statutes in an attempt to maintain the “co-op brand.” Over the evolutionary course of this project the default rules have probably moved closer to the look and feel of mid-twentieth century corporate-like cooperatives.

The 2006 Annual Meeting Draft contains substantial and numerous revisions from the 2005 Annual Meeting Draft reflecting Committee decisions at its Fall 2005 and Spring 2006 meetings.

The drafting decisions made and directed at the Spring 2006 meeting are reflected in this Draft and include, most substantially, a revision of the member voting provisions, derivative actions, and board of director organization. Other significant decisions made at the Spring meeting concerned the financial rights of members.

The February 2006 Draft reflected a number of noteworthy Committee directions. For example the nomenclature changed from “member” to “participant”; from “nonpatron member” to “investor participant”; the term “association” was inserted behind the word “cooperative” wherever appropriate to avoid interpretive confusion and to emphasize that this is a different type of cooperative within the umbrella term; the February 2006 draft also changed the method of voting for purposes of Committee discussion in response to questions raised on the floor of the 2005 Annual Meeting such that fundamental changes require approval of both “classes” of participants; “conversions” were added; another approach to integrate the term “consolidation” has been attempted by the reporters; and, for the first time, the article on “sale of assets” was included; the definitions were completely reworked in light of the substantive changes made by the Committee in its on-going discussion the inconsistent treatment of proxy has been remedied (no proxies are allowed); the “Reporters’ Notes” on participant actions (derivative actions) and under selected other sections now reflect research conducted by the reporters as requested by the

Committee over the past two meetings; and, the “filings” were given substantial attention and editing though they may need continued attention.

The entire draft has undergone a heavy Style Committee edit five times since the 2005 Annual Meeting.

Finally, the Reporters’ Notes (now relegated to the blackline version of the March 2007 Committee Draft) contain more, rather than fewer questions, as the draft matures to address finer grained issues. These questions should be viewed as evidence of progress and maturity and not a lack of either. Moreover, many of the questions are retained in the Notes for historical reference in drafting official Comments even though the Committee has resolved them.

1                   **UNIFORM LIMITED COOPERATIVE ASSOCIATION ACT**

2  
3                                   **[ARTICLE] 1**

4                                   **GENERAL PROVISIONS**

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

7                   **SECTION 102. DEFINITIONS.** In this [act]:

8                   (1) “Articles of organization” means initial, amended, or restated articles of organization  
9 of a limited cooperative association which contain the information required or permitted in  
10 Section 302. In the case of a foreign cooperative, the term includes all records that:

11                               (A) have a function similar to articles of organization under this [act]; and

12                               (B) are required to be filed in the office of the [Secretary of State] or other  
13 official having custody of articles of organization in the state or country under whose law the  
14 foreign cooperative is organized.

15                   (2) “Bylaws” means initial, amended, or restated bylaws of a limited cooperative  
16 association as provided in Section 304.

17                   (3) “Contribution” means a benefit that a person provides to a limited cooperative  
18 association to become a member or in the person’s capacity as a member.

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

21                   (5) “Designated office” means with respect to a limited cooperative association or a  
22 foreign cooperative, the office that it is required to designate and maintain under Section

1 116(a)(1).

2 (6) “Distribution” means a transfer of money or other property from a limited  
3 cooperative association to a member because of the member’s financial rights or to a transferee  
4 of a member’s financial rights.

5 (7) “Domestic entity” means an entity organized under the laws of this state.

6 (8) “Entity” means a person other than an individual, whether domestic or foreign.

7 (9) “Financial rights” means the right to participate in allocations and distributions as  
8 provided in [Articles] 9 and 11 but does not include rights or obligations under a marketing  
9 contract governed by [Article] 6.

10 (10) “Foreign cooperative” means an entity organized in a jurisdiction other than this  
11 state under a law similar to this [act].

12 (11) “Foreign entity” means an entity that is organized under the laws of a jurisdiction  
13 other than this state.

14 (12) “Governance rights” means the right to participate in governance of a limited  
15 cooperative association as provided in [Article] 4.

16 (13) “Investor member” means a person admitted as a member that is not required by the  
17 organic rules to conduct patronage business with the limited cooperative association in order to  
18 receive financial rights.

19 (14) “Limited cooperative association” means an association organized under this [act].

20 (15) “Member” means a person that is a patron member or investor member in a limited  
21 cooperative association. The term does not include a person that has dissociated as a member.

22 (16) “Member’s interest” means the interest of a patron member or investor member

1 under Section 501.

2 (17) “Members’ meeting” means an annual or special members’ meeting.

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

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

7 (20) “Organizer” means an individual who signs the articles of organization.

8 (21) “Patron” means a person that conducts economic activity with a limited cooperative  
9 association which entitles the person to receive financial rights based on patronage.

10 (22) “Patron member” means a person admitted as a member that is permitted or  
11 required to conduct patronage with the limited cooperative association to receive financial rights.

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

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

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

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

(27) “Required information” means the information a limited cooperative association is required to maintain under Section 113.

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

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

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

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

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

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

(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].** A limited cooperative association governed by this [act] is subject to any amendment or repeal of this [act].

**SECTION 104. NATURE OF LIMITED COOPERATIVE ASSOCIATION. A**

1 limited cooperative association organized under this [act] to be an autonomous unincorporated  
2 association of persons united voluntarily to meet their mutual interests at a practicable cost  
3 through a jointly owned enterprise primarily controlled by those persons which permits  
4 combining:

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

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

9 **SECTION 105. PURPOSE AND DURATION OF LIMITED COOPERATIVE**  
10 **ASSOCIATION.**

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

12 (b) A limited cooperative association may be organized under this [act] for any lawful  
13 purpose, whether or not for profit, [except] [designated prohibited purposes].

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

16 **SECTION 106. POWERS.** A limited cooperative association has the capacity to sue  
17 and be sued in its own name and power to do all things necessary or convenient to carry on its  
18 activities. An association may maintain an action against a member for harm caused to the  
19 association by a violation of a duty to the association or the organic law or organic rules.

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

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

22 (2) the relations among the members of the association and between the members and the

1 association.

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

4 **SECTION 109. NAME.**

5 (a) In this section, “available” means distinguishable upon the records of the [Secretary  
6 of State] from:

7 (1) the name of any entity organized or authorized to transact business in this  
8 state;

9 (2) a name reserved or registered under Section 110; and

10 (3) a fictitious or assumed name approved for a foreign cooperative authorized to  
11 transact business in this state.

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

16 (c) Except as authorized by subsection (d), the name of a limited cooperative association  
17 must be available.

18 (d) A limited cooperative association may apply to the [Secretary of State] for  
19 authorization to use a name that is not available. The [Secretary of State] shall authorize use of  
20 the name if:

21 (1) the name is reserved or registered under Section 110 and the user, registrant,  
22 or owner of the name consents in a record to the use and applies in a form satisfactory to the



1 [Secretary of State] to change the reserved or registered name to a name that is distinguishable  
2 upon the records of the [Secretary of State] from the name applied for; or

3 (2) the applicant delivers to the [Secretary of State] a certified copy of the final  
4 judgment of a court establishing the applicant's right to use the name in this state.

5 **SECTION 110. RESERVATION OF NAME.**

6 (a) A person may reserve the exclusive use of the name of a limited cooperative  
7 association, including a fictitious name for a foreign cooperative whose name is not available  
8 under Section 109, by delivering an application to the [Secretary of State] for filing. The  
9 application must set forth the name and address of the applicant and the name proposed to be  
10 reserved. If the [Secretary of State] finds that the name applied for is available under Section  
11 109, the name must be reserved for the applicant's exclusive use for a nonrenewable period of  
12 120 days.

13 (b) The owner of a name reserved for a limited cooperative association may transfer the  
14 reservation to another person by delivering to the [Secretary of State] a signed notice of the  
15 transfer which states the name, street address, and, if different, the mailing address of the  
16 transferee. If the owner of a reserved name is an organizer of an association and the name of the  
17 association is the same as the reserved name the delivery of articles of organization for filing [by  
18 the Secretary of State] is a transfer by the owner of the reserved name to the association.

19 **[SECTION 111. USE OF THE TERM "COOPERATIVE".**

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

22 (b) A limited cooperative association or a member may enforce the restrictions on the use

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

2 **SECTION 112. EFFECT OF ORGANIC RULES.**

3 (a) This [act] and the organic rules govern relations among and between a limited  
4 cooperative association, the association’s members and the association’s board of directors.

5 (b) Provisions of this [act] not modified by the phrases “unless the organic rules  
6 otherwise provide” or the phrase “unless the articles of organization otherwise provide” is  
7 mandatory and may not be varied by the organic rules except as otherwise expressly permitted in  
8 a specific provision. Matters not addressed by this [act] are subject to the organic rules. The  
9 organic rules may govern any other matters.

10 **SECTION 113. REQUIRED INFORMATION.**

11 (a) A limited cooperative association shall maintain in a record at its principal office the  
12 following:

13 (1) a list showing the full name and last known street address, mailing address,  
14 and term of office of each current director and officer;

15 (2) a copy of the initial articles of organization and all amendments to and  
16 restatements of the articles, together with a signed copy of any powers of attorney under which  
17 any articles, amendments, or restatements have been signed;

18 (3) a copy of the initial bylaws and all amendments to and restatements of the  
19 bylaws;

20 (4) a copy of all filed articles of consolidation or merger;

21 (5) a copy of any financial statement of the association for the six most recent  
22 years;

1 (6) a copy of the six most recent annual reports delivered by the association to the  
2 [Secretary of State];

3 (7) a copy of the minutes of meetings of members for the three most recent years;

4 (8) records of all actions taken by members without a meeting for the three most  
5 recent years;

6 (9) a list showing the full name and last known street and mailing addresses of  
7 each current member, separately identifying the patron members, in alphabetical order, and the  
8 investor members, in alphabetical order;

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

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

13 (12) a copy of the minutes of directors' meetings for the three most recent years;

14 (13) records of all actions taken by directors without a meeting for the three most  
15 recent years;

16 (14) a record stating:

17 (A) the amount of money contributed and agreed to be contributed by  
18 each member;

19 (B) a description and statement of the agreed value of other benefits  
20 contributed and agreed to be contributed by each member; and

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

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

3 (16) a copy of all communications made in a record to all members, or to all  
4 members in a class of members, for the three most recent years.

5 (b) If a limited cooperative association has been in existence for a period less than the  
6 time required for the maintenance of records under subsection (a) the time for which records are  
7 to be kept shall be the period of the association's existence.

8 **SECTION 114. BUSINESS TRANSACTIONS OF MEMBER WITH LIMITED**  
9 **COOPERATIVE ASSOCIATION.** Subject to the organic rules or a specific contract relating  
10 to a transaction, a member may lend money to and transact other business with a limited  
11 cooperative association and has the same rights and obligations with respect to the loan or other  
12 transaction as a person that is not a member.

13 **SECTION 115. DUAL CAPACITY.** A person may be both a patron member and an  
14 investor member. A person that is both a patron member and an investor member has the rights,  
15 powers, duties, and obligations provided by this [act] and the organic law in each of those  
16 capacities. When the person acts as a patron member, the person is subject to the obligations,  
17 duties, and restrictions under this [act] and the organic rules governing patron members. When  
18 the person acts as an investor member, the person is subject to the obligations, duties, and  
19 restrictions under this [act] and the organic rules governing investor members.

20 **SECTION 116. DESIGNATED OFFICE AND AGENT FOR SERVICE OF**  
21 **PROCESS.**

22 (a) A limited cooperative association, and a foreign cooperative that has a certificate of

1 authority under Section 1304, shall designate and continuously maintain in this state:

2 (1) an office, which need not be a place of the association's activity in this state;

3 and

4 (2) an agent for service of process at that office.

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

8 **SECTION 117. CHANGE OF DESIGNATED OFFICE OR AGENT FOR**  
9 **SERVICE OF PROCESS.**

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

14 (1) the name of the limited cooperative association;

15 (2) the street and mailing addresses of its designated office;

16 (3) if the designated office is to be changed, the street and mailing addresses of  
17 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 agent for service of process, or the street or mailing address of its  
22 principal office, a foreign cooperative shall deliver to the [Secretary of State] for filing a

statement of change containing:

(1) the name of the foreign cooperative;

(2) the name and street and mailing addresses of its current agent for service of process;

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

(4) the street and mailing addresses of its principal office; and

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

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

#### **SECTION 118. RESIGNATION OF AGENT FOR SERVICE OF PROCESS.**

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

(b) After receiving a statement of resignation under subsection (a), the [Secretary of State] shall file it and mail or otherwise provide or deliver a copy to the principal office.

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

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

(2) when a record designating a new agent for service of process is delivered to

1 the [Secretary of State] for filing on behalf of the association or cooperative and becomes  
2 effective.

3 **SECTION 119. SERVICE OF PROCESS.**

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

8 (b) If a limited cooperative association or foreign cooperative does not appoint or  
9 maintain an agent for service of process in this state or the agent for service of process cannot  
10 with reasonable diligence be found at the agent's address on file with the [Secretary of State], the  
11 [Secretary of State] is an agent of the association or foreign cooperative upon which process,  
12 notice, or a demand may be served.

13 (c) Service of process, notice, or a demand on the [Secretary of State] as agent of a  
14 limited cooperative association or foreign cooperative may be made by delivering to the  
15 [Secretary of State] two copies of the process, notice, or demand. The [Secretary of State] shall  
16 forward one of the copies by registered or certified mail, return receipt requested, to the  
17 association or foreign cooperative at its principal office.

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

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

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

1                   (3) five days after the process, notice, or a demand is deposited for delivery by the  
2   United States Postal Service, if mailed postpaid and correctly addressed.

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

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



1 [ARTICLE] 2

2 FILING AND ANNUAL REPORTS

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

6 (a) Records 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  
10 one 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 1106 or a person appointed under Section 1106 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 or deliver a record to the [Secretary of State]  
22 for filing does not do so, the [appropriate court], upon petition of an aggrieved person, may

order:

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

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

(b) If an aggrieved person under subsection (a) is not the limited cooperative association or foreign cooperative to which the record pertains, the aggrieved person shall make the association or foreign cooperative a party to the action brought to obtain the order.

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

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

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

(b) Upon request and payment of the requisite fee, the [Secretary of State] shall send to the requester a certified copy of any record filed by the [Secretary of State] under this [act].

(c) Except as otherwise provided in Sections 117 and 204, a record delivered to the [Secretary of State] for filing under this [act] may specify an effective time and a delayed effective date that may include an effective time on that date. Except as otherwise provided in Sections 117 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 204. 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 false or erroneous information or was defectively  
19 signed.

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

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

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

3                   (3) correct the incorrect information or defective signature.

4                   (c) When filed by the [Secretary of State], a statement of correction is effective  
5 retroactively as of the effective date of the record the statement corrects. However, the statement  
6 is effective when filed as to persons relying on the false or erroneous information or defective  
7 signature before its correction and adversely affected by the correction.

8                   **SECTION 205. LIABILITY FOR FALSE INFORMATION IN FILED RECORD.**

9 If a record delivered to the [Secretary of State] for filing under this [act] and filed by the  
10 [Secretary of State] contains inaccurate information, a person that suffers loss by reliance on the  
11 information may recover damages for the loss from a person that signed the record or caused  
12 another to sign it on the person's behalf and knew at the time the record was signed that the  
13 information was inaccurate.

14                   **SECTION 206. CERTIFICATE OF GOOD STANDING OR AUTHORIZATION.**

15                   (a) The [Secretary of State], upon application and payment of the required fee, shall  
16 furnish a certificate of good standing for a limited cooperative association if the records filed in  
17 the [office of the Secretary of State] show that the [Secretary of State] has filed articles of  
18 organization, that the association is in good standing, and that the [Secretary of State] has not  
19 filed a statement of termination.

20                   (b) The [Secretary of State], upon application and payment of the required fee, shall  
21 furnish a certificate of authorization for a foreign cooperative if the records filed in the [office of  
22 the Secretary of State] show that the [Secretary of State] has filed a certificate of authority, has

1 not revoked the certificate of authority, and has not filed a notice of cancellation pursuant to  
2 Section 1307.

3 (c) Subject to any qualification stated in the certificate, a certificate of good standing or  
4 authorization issued by the [Secretary of State] establishes conclusively that the limited  
5 cooperative association or foreign cooperative is in good standing or is authorized to transact  
6 business in this state.

7 **SECTION 207. ANNUAL REPORT FOR [SECRETARY OF STATE].**

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

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

11 (2) the street and mailing addresses of the association's or cooperative's  
12 designated office and the name of its agent for service of process;

13 (3) the street and mailing addresses of its principal office; and

14 (4) in the case of a foreign cooperative, the state or other jurisdiction under whose  
15 law the foreign cooperative is formed and any alternative name adopted under Section 1305.

16 (b) Information in an annual report must be current as of the date the annual report is  
17 delivered to the [Secretary of State].

18 (c) The first annual report must be delivered to the [Secretary of State] between [January  
19 1 and April 1] of the year following the calendar year in which the limited cooperative  
20 association was formed or the foreign cooperative was authorized to transact business in this  
21 state. An annual report must be delivered to the [Secretary of State] between [January 1 and  
22 April 1] of each subsequent calendar year.

1 (d) If an annual report does not contain the information required by subsection (a), the  
2 [Secretary of State] shall promptly notify the reporting limited cooperative association or foreign  
3 cooperative and return the report for correction. If the report is corrected to contain the  
4 information required by subsection (a) and delivered to the [Secretary of State] within 30 days  
5 after the date of the notice from the [Secretary of State], it is timely delivered.

6 (e) If a filed annual report contains an address of the designated office, the name of the  
7 agent for service of process, or the address of the principal office which differs from the  
8 information shown in the records of the [Secretary of State] immediately before the filing, the  
9 differing information in the annual report is considered a statement of change under Section 117.

10 (f) If a limited cooperative association fails to deliver an annual report under this section,  
11 the [Secretary of State] may proceed under Section 1111 to administratively dissolve the  
12 association.

13 (g) If a foreign cooperative fails to deliver an annual report under this section, the  
14 [Secretary of State] may proceed under Section 1306 to revoke the certificate of authority of the  
15 cooperative.

16 **SECTION 208. FILING FEES.** The filing fee for records filed under this [article] by  
17 the [Secretary of State] is governed by [insert appropriate citation to this state's general business  
18 corporation act, limited liability company act, or the general cooperative act.

1 [ARTICLE] 3

2 FORMATION AND ARTICLES OF ORGANIZATION

3  
4 SECTION 301. ORGANIZERS. A limited cooperative association must be organized  
5 by one or more organizers who are individuals.

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

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

10 (1) the name of the association;  
11 (2) the purposes for which the association is formed;  
12 (3) the street and mailing addresses of the association's initial designated office  
13 and the name and street and mailing addresses of the association's initial agent for service of  
14 process;

15 (4) the name and street and mailing addresses of each organizer; and  
16 (5) the term for which the association is to exist if other than perpetual.

17 (b) Subject to Section 112(b), articles of organization may contain any other provisions in  
18 addition to those required by subsection (a).

19 (c) A limited cooperative association is formed after articles of organization that  
20 substantially comply with subsection (a) are delivered to the [Secretary of State], are filed, and  
21 become effective under section 203(c).

22 (d) If the articles state a delayed effective date, a limited cooperative association is not

1 formed if, before the articles take effect, an organizer who signed the initial articles of  
2 organization signs and delivers to the [Secretary of State] for filing a statement of cancellation.

3 **SECTION 303. ORGANIZATION OF LIMITED COOPERATIVE**  
4 **ASSOCIATION.**

5 (a) After a limited cooperative association is formed under Section 302:

6 (1) if initial directors are named in the articles of organization, the initial directors  
7 shall hold an organizational meeting to adopt initial bylaws and carry on any other business  
8 brought before the directors at the meeting; or

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

13 (b) Initial directors need not be members.

14 (c) An initial director serves until a successor is elected and qualified at a special or  
15 annual members' meeting or the director is removed, resigns, is declared incompetent by a court  
16 with jurisdiction, or dies.

17 **SECTION 304. BYLAWS.**

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

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

22 (A) the groups, classes, or other types of member interests and relative



1 rights, preferences, and restrictions granted to or imposed upon each group, class, or other type of  
2 member interest; and

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

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

5 (3) a statement designating voting and other governance rights, including which  
6 members have voting power and any restriction on the voting power under Sections 411 through  
7 413;

8 (4) a statement that member interests held by a member are not transferable or, if  
9 transferable, a statement of the conditions upon which they may be transferred;

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

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

16 (b) Subject to Section 112(b) and the articles of organization, bylaws may contain any  
17 other provision for managing and regulating the affairs of the association.

18 (c) In addition to amendments permitted under [Article] 14, the initial board of directors  
19 of a limited cooperative association may amend the bylaws by a majority vote of the directors at  
20 any time before the admission of members.

1 **[ARTICLE] 4**

2 **MEMBERS**

3  
4 **SECTION 401. 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 402. BECOMING A MEMBER.** A person becomes a member:

- 7 (1) as provided in the organic rules;  
8 (2) as the result of merger or consolidation under [Article] 15; or  
9 (3) with the consent of all the members.

10 **SECTION 403. NO RIGHT OR POWER AS MEMBER TO BIND LIMITED**  
11 **COOPERATIVE ASSOCIATION.** A member does not have the right or power as a member  
12 to act for or bind the limited cooperative association.

13 **SECTION 404. NO LIABILITY AS MEMBER FOR LIMITED COOPERATIVE**  
14 **ASSOCIATION OBLIGATIONS.** Unless the articles of organization otherwise provide:

- 15 (a) an obligation of a limited cooperative association, whether arising in contract, tort, or  
16 otherwise, is not the obligation of a member; and  
17 (b) a member is not personally liable, by way of contribution or otherwise, for an  
18 obligation of the association solely by reason of being a member.

19 **SECTION 405. RIGHT OF MEMBER AND FORMER MEMBER TO**  
20 **INFORMATION.**

21 (a) Within 10 business days of receipt by a limited cooperative association of a demand  
22 made in a record, the association shall permit a member to obtain, inspect, and copy required

1 information under Section 113(1) through (8) during regular business hours in the association's  
2 principal office. A member need not have any particular purpose for seeking the information.  
3 The association is not required to provide the same information under Section 113(2) through (8)  
4 to the same member more than once during a six-month period.

5 (b) On demand made in a record received by the limited cooperative association, a  
6 member may obtain, inspect, and copy required information under Section 113(9), (10), (12),  
7 (13), and (16) if:

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

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

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

13 (4) the demand is reasonable.

14 (c) Within 10 business days after receiving a demand pursuant to subsection (b), a  
15 limited cooperative association shall inform in a record the member that made the demand:

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

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

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

21 (2) if the association declines to provide any demanded information, the  
22 association's reasons for declining.

1 (d) Subject to subsection (f), a person dissociated as a member may obtain, inspect, and  
2 copy information under subsection (a) or (b):

3 (1) by delivering a demand in a record to the limited cooperative association in the  
4 same manner and subject to the same conditions applicable to a member under subsection (b);

5 (2) if the information pertains to the period during which the person was a  
6 member in the association; and

7 (3) if the person seeks the information in good faith.

8 (e) A limited cooperative association shall respond to a demand made pursuant to  
9 subsection (d) in the same manner as provided in subsection (c).

10 (f) Within 10 business days of receipt by a limited cooperative association of a demand  
11 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 113(15).

14 (g) If a member dies or is adjudged incompetent, Section 1003 applies.

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

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

21 (j) A person who may obtain information under this Section may obtain the information  
22 through an attorney or other agent. A restriction imposed on the person under subsection (h) or

1 by the organic rules applies to the attorney or other agent.

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

3 (l) The organic rules may require a limited cooperative association to provide more  
4 information than required by this Section and may establish conditions and procedures for  
5 providing the information pursuant to this subsection.

6 **SECTION 406. ANNUAL MEMBERS' MEETINGS.**

7 (a) Members shall meet annually as provided in the organic rules or at the direction of the  
8 limited cooperative association's board of directors not inconsistent with the organic rules.

9 (b) Annual members' meetings may be held inside or outside this state at the place stated  
10 in the organic rules or by the limited cooperative association's board of directors not inconsistent  
11 with the organic rules.

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

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

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

20 (f) Failure to hold an annual meeting pursuant to subsection (a) does not affect the  
21 validity of any limited cooperative association action.

1           **SECTION 407. SPECIAL MEMBERS' MEETINGS.**

2           (a) Special members' meetings must be called:

3                   (1) as provided in the organic rules;

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

6                   (3) by demand in a record signed by members holding at least 20 percent of the  
7 votes of any class or group entitled to be cast on the matter that is the purpose of the meeting  
8 stated in the demand; or

9                   (4) by demand in a record signed by members holding at least 10 percent of all  
10 votes entitled to be cast on the matter that is the purpose of the meeting stated in the demand.

11           (b) Any voting member may withdraw its demand under subsection (a)(3) or (a)(4)  
12 before receipt by the limited cooperative association of demands sufficient to require a special  
13 members' meeting.

14           (c) A special members' meeting may be held inside or outside this state at the place  
15 stated in the organic rules or by the limited cooperative association's board of directors in  
16 accordance with the organic rules.

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

20           (e) Only affairs within the purpose or purposes stated pursuant to the notice of a special  
21 members' meeting may be conducted at the meeting.

22           (f) Unless the organic rules otherwise provide, the presiding officer of a special

1 members' meeting shall be designated by the limited cooperative association's board of directors.

2 **SECTION 408. NOTICE OF MEMBERS' MEETINGS.**

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

5 (b) Unless the articles of organization otherwise provide, notice of an annual members'  
6 meeting need not include the purpose or purposes of the meeting.

7 (c) Notice of a special members' meeting must include the purpose or purposes of the  
8 meeting as contained in the demand under Section 407(a)(3) or (a)(4) or as voted upon by the  
9 limited cooperative association's board of directors under Section 407(a)(2).

10 **SECTION 409. WAIVER OF MEMBERS' MEETING NOTICE.**

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

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

17 **SECTION 410. QUORUM OF MEMBERS.** Unless the organic rules otherwise  
18 provide, the voting power of those members present at a members' meeting constitutes a quorum.

19 **SECTION 411. VOTING BY PATRON MEMBERS.**

20 (a) Unless the organic rules provide for a greater quantum, each patron member has one  
21 vote. The organic rules may allocate voting power among patron members as provided in  
22 Section 412.

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

#### **SECTION 412. DETERMINATION OF VOTING POWER OF PATRON**

**MEMBER.** The organic rules may allocate voting power among patron members on the basis of one or a combination of:

(1) one member, one vote;

(2) use or patronage;

(3) equity; or

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

**SECTION 413. VOTING BY INVESTOR MEMBERS.** If the organic rules provide for investor members, each investor member has one vote, unless the organic rules otherwise provide. The organic rules may provide for the allocation of investor member voting power by class, classes, or any combination of classes.

**SECTION 414. VOTING REQUIREMENTS FOR MEMBERS.** If a limited cooperative association has both patron and investor members:

(a) (1) the total voting power of all patron members may not be less than two-thirds of the entire voting power entitled to vote; and

(2) action on any matter is approved only:

(A) upon the affirmative vote of at least a majority of all members voting at the meeting unless more than a majority is required by [Articles] 14 through 16 or in the organic rules; and

(B) at least one-half of the votes cast by patron members are in the



1 affirmative, but the organic rules may require a larger affirmative vote by patron members; and

2 (b) the organic rules may provide for the quantum of the affirmative votes that must be  
3 cast by investor members to approve the matter voted on.

4 **SECTION 415. MANNER OF VOTING.**

5 (a) At a members' meeting of proxy voting by members is prohibited.

6 (b) Delegate voting based on district, class, or classes is not voting by proxy under this  
7 section.

8 (c) The organic rules may provide for voting on some, none, or all questions by secret  
9 ballot delivered by mail or voting by other means on some or all questions that are subject to vote  
10 by members .

11 **SECTION 416. ACTION WITHOUT A MEETING.**

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

15 (b) A member may withdraw in a record consent under subsection (a) at any time before  
16 the limited cooperative association receives a consent from each member entitled to vote.

17 (c) The consent record of any action may specify the effective date or time of the action.

18 **SECTION 417. DISTRICTS AND DELEGATES; CLASSES OF MEMBERS .**

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

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

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

3                   (b) A delegate elected under subsection (a)(2) has one vote unless voting power is  
4 otherwise allocated under Section 412.

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

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

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

11                  (d) A delegate elected under subsection (c)(2) has one vote unless the organic rules  
12 provide for aggregate or representative voting based on the member voting under Sections 411  
13 through 413.

1 [ARTICLE] 5

2 MEMBER INTEREST

3  
4 SECTION 501. MEMBER 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  
10 cooperative association; and

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

12 SECTION 502. PATRON AND INVESTOR MEMBER INTERESTS. Unless the  
13 organic rules establish investor member interests, member interests must be patron member  
14 interests.

15 SECTION 503. TRANSFERABILITY OF MEMBER INTEREST.

16 (a) Unless the organic rules otherwise provide, member interests other than financial  
17 rights are not transferable. The terms of the restriction on transferability must be:

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

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

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

22 (c) A transferee of a member's financial rights, to the extent transferred, has the right to

1 share in the allocation of profits or losses and to receive the distributions to the member  
2 transferring the interest.

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

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

7 (f) A transfer of a member's financial rights in violation of a restriction or prohibition on  
8 transfer contained in the organic rules is void.

9 **SECTION 504. SECURITY INTEREST AND SET-OFF.**

10 (a) Subject to subsection (b), a member or transferee may grant a security interest only in  
11 financial rights in a limited cooperative association. The granting of a security interest in  
12 financial rights is not a transfer for purposes of Section 503. The limitation contained in this  
13 subsection does not apply to a member's interest that may be transferred in its entirety under the  
14 organic rules.

15 (b) The organic rules may restrict or eliminate the granting of a security interest in  
16 financial rights and may permit a security interest to be granted in governance rights. The  
17 limitation of subsection (a) to financial rights does not apply in the case of a member's interest  
18 that is not subject to a restriction or prohibition on transfer under the organic rules.

19 (c) A limited cooperative association has a continued perfected security interest in the  
20 financial rights of a member to secure payment of any indebtedness or other obligation of the  
21 member to the association. Notwithstanding [Sections 308 and 309 of UCC Article 9], the  
22 security interest has priority over all other perfected security interests. The association may

1 enforce its security interest by set-off against the member's financial rights in the association.

2 Unless the organic rules otherwise provide, a member may not compel the association to offset  
3 financial rights against any indebtedness or obligation owed to the association.

4 **SECTION 505. CHARGING ORDERS FOR A JUDGMENT CREDITOR OF**  
5 **MEMBER OR TRANSFEREE.**

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

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

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

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

19 (c) Upon a showing that distributions under a charging order will not pay the judgment  
20 debt within a reasonable time, the court may foreclose the lien and order the sale of the financial  
21 rights. The purchaser at the foreclosure sale obtains only the financial rights that are subject to  
22 the charging order, does not thereby become a member, and is subject to Section 503.

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

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

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

13          (g) This section provides the exclusive remedy by which persons seeking to enforce a  
14    judgment against a member or transferee may, in the capacity of judgment creditor, satisfy the  
15    judgment out of the judgment debtor's financial rights.

16          (h) The limitations of this section to financial rights do not apply to the extent that the  
17    organic rules provide for the transfer of the member's interest in addition to financial rights.

1 [ARTICLE] 6

2 MARKETING CONTRACTS

3  
4 **SECTION 601. 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 602. 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 absolutely to the association upon delivery  
14 or at any other specific time expressly provided by the contract.

15 (b) A marketing contract may:

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

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

21 **SECTION 603. DURATION OF MARKETING CONTRACT.** The initial duration  
22 of a marketing contract may not exceed 10 years, but the contract may be made self-renewing for

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

4 **SECTION 604. REMEDIES FOR BREACH OF CONTRACT.**

5 (a) A marketing contract or the organic rules may establish the right to injunctive relief,  
6 specific performance, and liquidated damages and shall be enforceable in accordance with the  
7 terms of the contract or the organic rules.

8 (b) The remedies in subsection (a) shall not be construed as penalties and are in addition  
9 to any other available remedies.



1 [ARTICLE] 7

2 **DIRECTORS AND OFFICERS**

3  
4 **SECTION 701. EXISTENCE AND POWERS OF BOARD OF DIRECTORS.**

5 (a) Unless the number of members is fewer than three, a limited cooperative association  
6 must have a board of directors consisting of three or more individuals. If there are fewer than  
7 three members , the number of directors may not be less 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 association's board of directors and the board may adopt policies and procedures  
10 not in conflict with the organic rules or this [act].

11 (c) An individual does not have agency authority on behalf of a limited cooperative  
12 association solely by being a director.

13 **SECTION 702. NO LIABILITY AS DIRECTOR FOR LIMITED COOPERATIVE**  
14 **ASSOCIATION'S OBLIGATIONS.** An obligation of a limited cooperative association,  
15 whether arising in contract, tort, or otherwise, is not the obligation of a director. An individual is  
16 not personally liable, directly or indirectly, by way of contribution or otherwise, for an obligation  
17 of the association solely by reason of being a director.

18 **SECTION 703. QUALIFICATIONS OF DIRECTORS AND COMPOSITION OF**  
19 **BOARD.**

20 (a) A director of a limited cooperative association must be an individual.

21 (b) Subject to this section, the organic rules may provide for qualifications of directors.

22 (c) Unless the organic rules otherwise provide and subject to Section 303 and subsections

(d) and (e), each director of a limited cooperative association must be a member of the association or an individual designated by a member that is not an individual.

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

(e) Unless the organic rules otherwise provide, if a limited cooperative association has nonmember directors, the number of nonmember directors may not exceed:

(1) one director if there are two, three, or four directors; or

(2) one-fifth of the total number of directors if there are five or more directors.

#### **SECTION 704. ELECTION OF DIRECTORS.**

(a) Unless the organic rules require a greater number, a majority of the board of directors of a limited cooperative association must be elected exclusively by patron members .

(b) If a limited cooperative association has investor members, and unless the organic rules otherwise provide, the investor members shall elect the directors who are not exclusively elected by patron members under subsection (a).

(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 of a limited cooperative association is prohibited.

1 (g) Except as otherwise provided by the organic rules, subsection (e), or Sections 417  
2 and 709, member directors of a limited cooperative association must be elected at an annual  
3 members' meeting.

#### 4 **SECTION 705. TERM OF DIRECTOR.**

5 (a) Unless the organic rules otherwise provide and, subject to Section 303(c), the term of  
6 a director of a limited cooperative association expires at the annual members' meeting following  
7 the director's election appointment. The term of a director may not exceed three years.

8 (b) Unless the organic rules otherwise provide, a director may be reelected for  
9 subsequent terms.

10 (c) A director continues to serve until a successor director is elected or appointed and  
11 qualified or the director is removed, resigns, ceases to qualify as a director under the organic  
12 rules, is declared incompetent by a court with jurisdiction, or dies.

#### 13 **SECTION 706. RESIGNATION OF DIRECTOR.**

14 (a) A director may resign at any time by giving notice in a record to the limited  
15 cooperative association.

16 (b) Unless the notice states a later effective date, a resignation is effective when notice is  
17 received by the limited cooperative association.

18 **SECTION 707. REMOVAL OF DIRECTOR.** Unless the organic rules otherwise  
19 provide:

20 (1) members may remove one or more directors with or without cause.

21 (2) A member or members holding at least 10 percent of the total voting power entitled  
22 to be voted in the election of the director may petition the board of directors for the removal of a

1 director by a signed record submitted to the officer of the limited cooperative association charged  
2 with keeping its records.

3 (3) Upon receipt of a petition for removal of a director:

4 (A) a limited cooperative association's board of directors shall call a special  
5 members' meeting to be held within 90 days after receipt of the petition by the association; and

6 (B) the board of directors shall mail or otherwise transmit or deliver in a record to  
7 the members entitled to vote on the removal notice of the meeting that complies with Section  
8 408.

9 (4) A director against whom a petition has been submitted must be informed in a record  
10 of the petition within a reasonable time before the members' meeting at which the members  
11 consider the petition.

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

14 **SECTION 708. SUSPENSION OF DIRECTOR BY BOARD.**

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

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

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

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

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

1 (b) A suspension is effective for 30 days unless the board of directors calls a special  
2 meeting for removal of the director pursuant to Section 707(3), (4), and (5) before the end of the  
3 30-day period pursuant to Section 707(b). The organic rules may not vary those requirements.

4 **SECTION 709. VACANCY ON BOARD.**

5 (a) Unless the organic rules otherwise provide, a vacancy on the board of directors of a  
6 limited cooperative association must be filled within a reasonable time:

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

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

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

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

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

16 (c) If a member appointed a vacating director under Section 704(e), the organic rules may  
17 provide for that member to appoint a director to fill the vacancy.

18 **SECTION 710. COMPENSATION OF DIRECTORS.** Unless the organic rules  
19 otherwise provide, the board of directors of a limited cooperative association may fix the  
20 remuneration of directors and of nondirector committee members appointed under Section  
21 717(a).

1           **SECTION 711. MEETINGS.**

2           (a) The board of directors of a limited cooperative association shall meet at least annually  
3 and may hold meetings inside or outside this state.

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

8           **SECTION 712. ACTION WITHOUT MEETING.**

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

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

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

16          **SECTION 713. MEETINGS AND NOTICE.**

17          (a) Unless the organic rules otherwise provide, a limited cooperative association's board  
18 of directors may establish a time, date, and place for regular board meetings and notice of the  
19 time, date, place, or purpose of those meetings is not required.

20          (b) Unless the organic rules otherwise provide, notice of the time, date, and place of a  
21 special meeting of a limited cooperative association's board of directors must be given to all  
22 directors at least three days before the meeting. The notice must contain a statement of the

1 purpose of the special meeting, and the meeting is limited to the matters contained in the  
2 statement.

3 **SECTION 714. WAIVER OF NOTICE OF MEETING.**

4 (a) Unless the organic rules otherwise provide, a director of a limited cooperative  
5 association may waive any required notice of a meeting of the association's board of directors in  
6 a record before, during, or after the meeting.

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

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

12 (2) the director promptly objects upon the introduction of any matter for which  
13 proper notice has not been given and does not thereafter vote in favor of or otherwise assent to  
14 the action taken on the matter.

15 **SECTION 715. QUORUM.**

16 (a) Unless the articles of organization otherwise provide, a majority of the fixed number  
17 of directors on a limited cooperative association's board of directors constitutes a quorum for the  
18 management of the affairs of the association.

19 (b) If a quorum of the board of directors of a limited cooperative association is present at  
20 the beginning of a meeting, any action taken by the directors present is valid even if withdrawal  
21 of directors originally present results in the number of directors being less than the number  
22 required for a quorum.

1 (c) A director present at a meeting but objecting to notice under Section 714(b)(1) or (2)  
2 shall not be counted toward a quorum.

3 **SECTION 716. VOTING.**

4 (a) Each director of a limited cooperative association has one vote for purposes of  
5 decisions made by the board of directors of the association.

6 (b) Unless the organic rules otherwise provide and subject to Sections 715, 1402(1)(A),  
7 1503(a)(1), 1508(a), and 1603(1), the affirmative vote of the majority of directors present at a  
8 meeting is the act of the board of directors.

9 **SECTION 717. COMMITTEES.**

10 (a) Unless the organic rules otherwise provide, a limited cooperative association's board  
11 of directors may create one or more committees and appoint one or more individuals to serve on  
12 a committee.

13 (b) Unless the organic rules otherwise provide, an individual appointed to serve on a  
14 committee of a limited cooperative association need not be a director or member of the  
15 association. A non-director serving on a committee has the same rights, duties, and obligations  
16 as a director serving on a committee.

17 (c) Unless the organic rules otherwise provide, each committee of a limited cooperative  
18 association may exercise the powers delegated by the association's board of directors, but a  
19 committee may not:

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

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



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

2 **SECTION 718. STANDARDS OF CONDUCT AND LIABILITY.** Except as  
3 provided in Section 720:

4 (1) the discharge of the duties of a director or member of a committee of the board of  
5 directors of a limited cooperative association is governed by the law applicable to directors of  
6 entities organized under [insert cross-reference to this State's Cooperative Corporation Act]  
7 [insert cross-reference to this State's Nonprofit Cooperative Act] [insert cross-reference to this  
8 State's General Business Corporation Act] [insert cross-reference to this State's Nonprofit  
9 Corporation Act]; and

10 (2) the liability of a director or member of a committee of the board of directors is  
11 governed by the law applicable to directors of entities organized under [insert cross-reference to  
12 this State's Cooperative Corporation Act] [insert cross-reference to this State's Nonprofit  
13 Cooperative Act] [insert cross-reference to this State's General Business Corporation Act] [insert  
14 cross-reference to this State's Nonprofit Corporation Act].

15 **SECTION 719. CONFLICT OF INTEREST.** The law applicable to conflicts of  
16 interest between a director of an entity organized under [insert cross-reference to this State's  
17 Cooperative Corporation Act] [insert cross-reference to this State's Nonprofit Corporation Act]  
18 [insert cross-reference to this State's General Business Corporation Act] governs conflicts of  
19 interest between a limited cooperative association and a director or member of a committee of the  
20 board of directors of the association.

21 **SECTION 720. OTHER CONSIDERATIONS OF DIRECTORS.** Unless the articles  
22 of organization otherwise provide, in considering the best interests of a limited cooperative

1 association, a director of the association in discharging the duties of director, in conjunction with  
2 considering the long and short term interest of the association and its patron members, may  
3 consider:

- 4 (1) the interest of employees, customers, and suppliers of the association;
- 5 (2) the interest of the community in which the association operates; and
- 6 (3) other cooperative principles and values that appropriately can be applied in the  
7 context of the decision.

8 **SECTION 721. RIGHT OF DIRECTOR OR COMMITTEE MEMBER TO**  
9 **INFORMATION.** A director of a limited cooperative association or a member of a committee  
10 appointed under Section 717 may obtain, inspect, and copy all information regarding the state of  
11 activities and financial condition of the association and other information regarding the activities  
12 of the association reasonably related to the performance of the director's duties as director or the  
13 committee member's duties as a member of the committee, but not for any other purpose or in  
14 any manner that would violate any duty to the association.

15 **SECTION 722. APPOINTMENT AND AUTHORITY OF OFFICERS.**

- 16 (a) A limited cooperative association has the officers:
  - 17 (1) provided in the organic rules; or
  - 18 (2) if not provided in the organic rules, established by the association's board of  
19 directors consistent with the organic rules.
- 20 (b) The organic rules may designate or, if the rules do not designate, the board of  
21 directors of the limited cooperative association shall designate, one of the association's officers  
22 for preparing all records required by Section 113 and for the authentication of records.

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

3 (d) Officers of a limited cooperative association have the authority and obligation to  
4 perform the duties the organic rules prescribe or as the association's board of directors  
5 determines is consistent with the organic rules.

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

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

10 **SECTION 723. RESIGNATION AND REMOVAL OF OFFICERS.**

11 (a) The board of directors of a limited cooperative association may remove an officer at  
12 any time with or without cause.

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

1 [ARTICLE] 8

2 INDEMNIFICATION

3  
4 SECTION 801. INDEMNIFICATION.

5 (a) Indemnification of any individual who has incurred liability or is a party, or is  
6 threatened to be made a party, to litigation because of the performance of a duty to, or activity on  
7 behalf of, a limited cooperative association is governed by [insert cross-reference to this State's  
8 Cooperative Corporation Act] [insert cross-reference to this State's Nonprofit Cooperative Act]  
9 [insert cross-reference to this State's General Business Corporation Act].

10 (b) A limited cooperative association may purchase and maintain insurance on behalf of  
11 any individual against liability asserted against or incurred by the individual to the same extent  
12 and subject to the same conditions as provided by [insert cross-reference to this State's  
13 Cooperative Corporation Act] [insert cross-reference to this State's Nonprofit Cooperative Act]  
14 [insert cross-reference to this State's General Business Corporation Act].

1 [ARTICLE] 9

2 CONTRIBUTIONS, ALLOCATIONS, AND DISTRIBUTIONS

3  
4 SECTION 901. MEMBERS' CONTRIBUTIONS. The organic rules may establish  
5 the amount, manner, or method of determining any member contribution requirements for  
6 members or may authorize the board of directors of a limited cooperative association to establish  
7 the manner and terms of any contributions by members.

8 SECTION 902. FORMS OF CONTRIBUTION AND VALUATION.

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

13 (b) The receipt and acceptance of contributions and the valuation of contributions must  
14 be reflected in the limited cooperative association's records required under Section 113.

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

19 SECTION 903. CONTRIBUTION AGREEMENTS.

20 (a) An agreement by a person to make a contribution to a limited cooperative association  
21 entered into before formation of the association is irrevocable for six months unless all parties to  
22 the agreement consent to the revocation.

1 (b) A person's obligation to make a contribution under subsection (a) is not excused by  
2 the person's death, disability, or other inability to perform personally.

3 (c) If a person does not make a required contribution to a limited cooperative association  
4 under an agreement described in subsection (a):

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

8 (2) the association, once formed, may rescind the agreement if the debt remains  
9 unpaid more than 20 days after the association demands payment from the person, and upon  
10 recision the person shall have no further rights or obligations with respect to the association.

11 (d) An agreement to make a contribution may vary the requirements of this section.

12 **SECTION 904. ALLOCATIONS OF PROFITS AND LOSSES.**

13 (a) The organic rules must provide that profits of a limited cooperative association be  
14 allocated among members and, if the organic rules permit, to an unallocated account. Unless the  
15 organic rules otherwise provide, losses of the association must be allocated in the same  
16 proportion as profits.

17 (b) Unless the organic rules otherwise provide, all the profits and losses must be  
18 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 except:

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

1 members under this subsection; and

2 (2) sums paid, due, or allocated to investor members as a stated fixed return on  
3 equity are not considered amounts allocated to investor members for purposes of this subsection.

4 (d) Unless the organic rules otherwise provide, in determining amount of profits of a  
5 limited cooperative association, the association's board of directors may deduct and set aside a  
6 part of the revenue, whether or not allocated to members , after accounting for other expenses to  
7 create or accumulate:

8 (1) a capital reserve; and

9 (2) reserves for specific purposes, including expansion and replacement of capital  
10 assets, education, training, and information concerning principles of cooperation, community  
11 responsibility, and development.

12 (e) Subject to subsection (f) and the organic rules, the board of directors of a limited  
13 cooperative association shall further allocate the amounts determined pursuant to subsections (a),  
14 (b), and (c):

15 (1) to patron members in the ratio of each member's patronage to the total  
16 patronage of all patron members during the period; and

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

19 (f) For purposes of allocation of profits and losses of a limited cooperative association to  
20 members, the organic rules may establish allocation units or methods based on separate classes of  
21 members, or for patron members on class, function, division, district, department, allocation  
22 units, pooling arrangements, members' contributions, or other equitable methods.

1           **SECTION 905. DISTRIBUTIONS.**

2           (a) Unless the organic rules otherwise provide and subject to Section 907, the board of  
3 directors may authorize, and the association may make, distributions to members.

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

7           **SECTION 906. REDEMPTION OF EQUITY.** Unless the organic rules otherwise  
8 provide and subject to Section 907, a limited cooperative association:

- 9           (1) may redeem a patron member's equity; and  
10          (2) may not redeem an investor member's equity.

11          **SECTION 907. LIMITATIONS ON DISTRIBUTIONS.**

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

- 14               (1) the association would not be able to pay its debts as they become due in the  
15 ordinary course of the association's activities; or  
16               (2) the association's assets would be less than the sum of its total liabilities.

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

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



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

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

5                               (A) the distribution is authorized, if the payment occurs within 120 days  
6 after that date; or

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

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

12                   **[SECTION 908. RELATION TO STATE SECURITIES LAW].** Patron member  
13 interests in the limited cooperative association that are based on patronage are entitled to the  
14 same exemption as provided for substantially similar interests in cooperatives under [citation to  
15 appropriate provision in other laws].]

16                   **[SECTION 909. ALTERNATIVE DISTRIBUTION OF UNCLAIMED**  
17 **PROPERTY, DISTRIBUTIONS, REDEMPTIONS, OR PAYMENTS.** A limited  
18 cooperative association may distribute unclaimed property, distributions, redemptions, or  
19 payments under [citation to the applicable provision in the law governing cooperatives not  
20 formed under this [act] in this state.]

1 [ARTICLE] 10

2 DISSOCIATION

3  
4 SECTION 1001. MEMBER'S DISSOCIATION.

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

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

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

10 (2) 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 willfully dissolved or terminated.

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

19 (d) Unless the organic rules otherwise provide, a member is dissociated from the limited  
20 cooperative association as a member when any of the following occurs:

21 (1) the association's receipt of notice in a record of the member's express will to  
22 dissociate as a member , except that, if the member specifies in the notice a withdrawal date later

1       than the date the association had notice, on that later date;

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

4                   (3) the member's expulsion as a member pursuant to the organic rules;

5                   (4) the member's expulsion as a member by the association's board of directors

6       if:

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

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

11                               (i) a creation or perfection for security purposes; or

12                               (ii) a charging order in effect under Section 505 which has not been  
13       foreclosed;

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

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

17                               (i) the:

18                                       (1) member has filed a certificate of dissolution or the  
19       equivalent; or

20                               (2) jurisdiction of formation has revoked the association's  
21       charter or right to conduct business;

22                               (ii) the association notifies the member that it will be expelled as a

1 member for a reason described in subparagraph (i); and

2 (iii) within 90 days after the date of the notice under subparagraph

3 (B):

4 (1) the member does not revoke its certificate of dissolution  
5 or the equivalent; or

6 (2) the jurisdiction of formation does not reinstate the  
7 association's charter or right to conduct business;

8 (5) in the case of a member who is an individual:

9 (A) the individual's death;

10 (B) the appointment of a guardian or general conservator for the  
11 individual; or

12 (C) a judicial determination that the individual has otherwise become  
13 incapable of performing the individual's duties as a member under this [act] or the organic rules;

14 (6) in the case of a member that is a trust or is acting as a member by virtue of  
15 being a trustee of a trust, distribution of the trust's entire financial rights in the association, but  
16 not solely by reason of the substitution of a successor trustee;

17 (7) in the case of a member that is an estate, distribution of the estate's entire  
18 financial interest in the association, but not merely by the substitution of a successor personal  
19 representative;

20 (8) termination of a member that is not an individual, partnership, limited liability  
21 company, cooperative corporation, trust, or estate; or

22 (9) the association's participation in a consolidation or merger if, under the plan

1 of merger as approved under [Article] 15, the member ceases to be a member .

2 **SECTION 1002. EFFECT OF DISSOCIATION AS MEMBER .**

3 (a) Upon a member's dissociation:

4 (1) subject to Section 1003, the person has no further rights as a member ; and

5 (2) subject to Section 1003 and [Article] 15, any financial rights owned by the  
6 person in the person's capacity as a member immediately before dissociation are owned by the  
7 person as a transferee who is not admitted as a member after dissociation.

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

11 **SECTION 1003. POWER OF ESTATE OF MEMBER.** Unless the organic rules  
12 otherwise provide, if a member dies or is adjudged incompetent, the member's personal  
13 representative or other legal representative may exercise the rights of a transferee and the  
14 member's financial rights as provided in Section 503 and, for purposes of settling the estate of  
15 the deceased member , may exercise the informational rights of a current member under Section  
16 405.

1 [ARTICLE] 11

2 DISSOLUTION

3  
4 **SECTION 1101. DISSOLUTION.** A limited cooperative association may be  
5 dissolved:

- 6 (1) nonjudicially under Section 1102;  
7 (2) judicially under Section 1103; or  
8 (3) administratively under Section 1111.

9 **SECTION 1102. NONJUDICIAL DISSOLUTION.** Except as otherwise provided in  
10 Sections 1103 and 1111, a limited cooperative association is dissolved and its activities must be  
11 wound up only upon:

- 12 (1) the occurrence of an event or the coming of a time specified in the articles of  
13 organization;  
14 (2) the action of the association's organizers, board of directors, or member under  
15 Section 1104 or 1105;  
16 (3) the passage of 90 days after the dissociation of a member , resulting in the association  
17 having fewer than two members , at least one of whom is a patron member , unless the  
18 association:

- 19 (A) has a sole member that is a cooperative; or  
20 (B) before the end of the 90 days, admits at least one member in accordance with  
21 the organic rules and has at least two members, at least one of which is a patron member.

22 **SECTION 1103. JUDICIAL DISSOLUTION.** The [appropriate court] may dissolve a

1 limited cooperative association or order any action that under the circumstances is appropriate  
2 and equitable:

3 (1) in a proceeding initiated by the [Attorney General], if it is established that:

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

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

7 (2) in a proceeding initiated by a member , if it is established that:

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

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

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

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

17 **SECTION 1104. VOLUNTARY DISSOLUTION BEFORE COMMENCEMENT**  
18 **OF ACTIVITY.** A majority of the organizers or initial directors of a limited cooperative  
19 association that has not yet begun business activity or the conduct of its affairs may dissolve the  
20 association.

1                   **SECTION 1105. VOLUNTARY DISSOLUTION BY THE BOARD AND**  
2                   **MEMBERS.**

3                   (a) Except as provided in Section 1104, in order for a limited cooperative association to  
4 voluntarily dissolve:

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

7                         (2) the board of directors must call a special members' meeting to consider the  
8 resolution, to be held within 90 days after adoption of the resolution; and

9                         (3) the board of directors must mail or otherwise transmit or deliver to each  
10 member in a record that complies with Section 408:

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

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

15                                 (C) notice of the members' meeting, in the same manner as notice of a  
16 special members' meeting is given.

17                   (b) Unless the organic rules otherwise provide, a resolution to dissolve must be approved  
18 by at least a two-thirds vote of the voting power of all members present at a special members'  
19 meeting. However, if the limited cooperative association has investor members, at least one-half  
20 of the votes cast by patron members must be in the affirmative, but the organic rules may require  
21 a larger affirmative vote by patron members .  
22



1           **SECTION 1106. WINDING UP.**

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

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

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

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

10                   (3) prosecute and defend actions and proceedings;

11                   (4) transfer association property;

12                   (5) settle disputes by mediation or arbitration; and

13                   (6) perform other necessary acts.

14           (c) Upon application of a limited cooperative association, any member, or a holder of  
15 financial rights, the [appropriate court] may order judicial supervision of the winding up of the  
16 association, including the appointment of a person to wind up the dissolved association's  
17 activities, if:

18                   (1) after a reasonable time, the association has not executed winding up; or

19                   (2) the applicant establishes other good cause.

20           (d) A limited cooperative association shall promptly deliver to the [Secretary of State] for  
21 filing an amendment to the articles of organization to reflect the appointment of a person to wind  
22 up the association's activities.

1           **SECTION 1107. DISTRIBUTION OF ASSETS IN WINDING UP LIMITED**  
2           **COOPERATIVE ASSOCIATION.**

3           (a) In winding up a limited cooperative association's business, the association must apply  
4           its assets to discharge its obligations to creditors, including members who are creditors. Any  
5           remaining assets must be applied to pay in money the net amount distributable to members in  
6           accordance with their right to distributions under subsection (b).

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

15           **SECTION 1108. KNOWN CLAIMS AGAINST DISSOLVED LIMITED**  
16           **COOPERATIVE ASSOCIATION.**

17          (a) Subject to subsection (d), a dissolved limited cooperative association may dispose of  
18          the known claims against it by following the procedure in subsection (b).

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

- 21                  (1) specify the information required to be included in a claim;
- 22                  (2) provide an address to which the claim must be sent;

(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

(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 specified deadline;

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

(3) in the case of a claim that is timely received but is neither accepted nor rejected by the association within 120 days after the deadline for receipt of claims, the claimant does not commence an action to enforce the claim against the association within 90 days after the 120 day period.

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

#### **SECTION 1109. OTHER CLAIMS AGAINST DISSOLVED LIMITED COOPERATIVE ASSOCIATION.**

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

(b) A notice under subsection (a) must:

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

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

7                   (3) state that a claim against the association is barred unless an action to enforce  
8 the claim is commenced within three years after publication of the notice.

9                   (c) If a dissolved limited cooperative association publishes a notice in accordance with  
10 subsection (b), the claim of each of the following claimants is barred unless the claimant  
11 commences an action to enforce the claim against the dissolved association within three years  
12 after the publication date of the notice:

13                   (1) a claimant that is entitled to but did not receive notice in a record under  
14 Section 1108; and

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

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

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

20                   (2) if the association's assets have been distributed in connection with winding up  
21 the association's activities, against a member or holder of financial rights to the extent of that  
22 person's proportionate share of the claim or the association's assets distributed to the person in

1 connection with the winding up, whichever is less, to the extent the person's total liability for all  
2 claims under this subsection does not exceed the total amount of assets distributed to the person  
3 as part of the winding up of the association.

#### 4 **SECTION 1110. COURT PROCEEDING.**

5 (a) A dissolved limited cooperative association that has published a notice under Section  
6 1109 may file an application with the court in the [county] where the principal office is located  
7 for a determination of the amount and form of security to be provided for payment of claims that  
8 are contingent or have not been made known to the association or that are based on an event  
9 occurring after the effective date of dissolution but that, based on the facts known to the  
10 association, are reasonably estimated to arise after the effective date of dissolution.

11 (b) Within 10 days after filing an application pursuant to subsection (a), a dissolved  
12 limited cooperative association shall give notice of the proceeding to each known claimant  
13 holding a contingent claim.

14 (c) The court may appoint a representative in any proceeding brought under this section  
15 to represent all claimants whose identities are unknown. The reasonable fees and expenses of the  
16 representative, including all reasonable expert witness fees, shall be paid by the dissolved limited  
17 cooperative association.

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

1                   **SECTION 1111. ADMINISTRATIVE DISSOLUTION.**

2                   (a) The [Secretary of State] may dissolve a limited cooperative association  
3                   administratively if the association does not:

4                               (1) within 60 days after the due date pay any fee, tax, or penalty due to the  
5                   [Secretary of State] under this [act] or other law; or

6                               (2) deliver its annual report to the [Secretary of State] as required by Section 207.

7                   (b) If the [Secretary of State] determines that a ground exists for administratively  
8                   dissolving a limited cooperative association, the [Secretary of State] shall file a record of the  
9                   determination and serve the association with a copy of the record.

10                   (c) If, within 60 days after service of a copy of the [Secretary of State's] determination  
11                   that a ground exists for dissolving a limited cooperative association, the association does not  
12                   correct each ground for dissolution or demonstrate to the reasonable satisfaction of the [Secretary  
13                   of State] that each uncorrected ground determined by the [Secretary of State] does not exist, the  
14                   [Secretary of State] shall administratively dissolve the association by preparing, signing, and  
15                   filing a declaration of dissolution that states the grounds for dissolution. The [Secretary of State]  
16                   shall serve the association with a copy of the declaration.

17                   (d) A limited cooperative association administratively dissolved continues its existence  
18                   but may carry on only activities necessary to wind up its activities and liquidate its assets under  
19                   Section 1106 and to give notice to claimants under Sections 1108 and 1109.

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

1           **SECTION 1112. REINSTATEMENT FOLLOWING ADMINISTRATIVE**  
2   **DISSOLUTION.**

3           (a) A limited cooperative association that has been administratively dissolved may apply  
4   to the [Secretary of State] for reinstatement within two years after the effective date of  
5   dissolution. The application must be delivered to the [Secretary of State] for filing and state:

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

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

10                (3) that the association's name satisfies the requirements of Section 109.

11           (b) If the [Secretary of State] determines that an application contains the information  
12   required by subsection (a) and that the information is correct, the [Secretary of State] shall:

13                 (1) prepare a declaration of reinstatement that states this determination;

14                 (2) sign and file the original of the declaration; and

15                 (3) serve the limited cooperative association with a copy of the declaration.

16           (c) When reinstatement under this section becomes effective, it relates back to and takes  
17   effect as of the effective date of the administrative dissolution, and the limited cooperative  
18   association may resume or continue its activities as if the administrative dissolution had never  
19   occurred.

20           **SECTION 1113. DENIAL OF REINSTATEMENT; APPEAL.**

21           (a) If the [Secretary of State] denies a limited cooperative association's application for  
22   reinstatement following administrative dissolution, the [Secretary of State] shall prepare, sign,

1 and file a notice that explains the reason or reasons for denial and serve the association with a  
2 copy of the notice.

3 (b) Within 30 days after service of a notice of denial of reinstatement by the [Secretary of  
4 State] under subsection (a), a limited cooperative association may appeal the denial by  
5 petitioning the [appropriate court] to set aside the dissolution. The petition must be served on the  
6 [Secretary of State] and contain a copy of the [Secretary of State's] declaration of dissolution, the  
7 association's application for reinstatement, and the [Secretary of State's] notice of denial.

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

#### 10 **SECTION 1114. STATEMENT OF DISSOLUTION.**

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

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

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

- 17 (1) 90 days after a statement of dissolution is filed; or
- 18 (2) the effective date stated in the statement of dissolution.

#### 19 **SECTION 1115. STATEMENT OF TERMINATION.**

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

- 22 (1) the name of the association;



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

**[[ARTICLE] 12]**

## ACTIONS BY MEMBERS

**SECTION 1201. DERIVATIVE ACTION.** A member may maintain a derivative

action to enforce a right of a limited cooperative association if:

- (1) the member adequately represents the interests of the association;
- (2) the member demands that the association bring an action to enforce the right; and
- (3) any of the of following occur:

- (A) the association does not, within 90 days after the member makes the demand under paragraph (2), agree to bring the action;

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

- (C) irreparable injury to the association would result by waiting 90 days after the member makes the demand under paragraph (2); or

- (D) the association agreed to bring an action demanded under paragraph (2) and fails to bring the action within a reasonable time.

**SECTION 1202. PROPER PLAINTIFF.**

(a) A derivative action to enforce a right of a limited cooperative association may be maintained only by a person that is a member at the time the action is commenced and:

- (1) was a member when the conduct giving rise to the action occurred; or
- (2) whose status as a member or transferee of a member devolved upon the person by operation of law from a person that was a member at the time of the conduct.

- (b) If the sole plaintiff in a derivative action dies while the action is pending, the court

1 may permit another member to be substituted as plaintiff.

2 **SECTION 1203. PLEADING.** In a derivative action, the complaint must state with  
3 particularity:

4 (1) the date and content of the plaintiff's demand and the limited cooperative  
5 association's response to the demand;

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

8 (3) if the association agreed to bring an action demanded under Section 1202(2), that the  
9 action has not been brought within a reasonable time.

10 **SECTION 1204. COURT APPROVAL FOR DISCONTINUANCE OR**  
11 **SETTLEMENT.** A derivative action to enforce a right of a limited cooperative association may  
12 not be discontinued or settled without the [appropriate court's] approval.

13 **SECTION 1205. PROCEEDS AND EXPENSES.**

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

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

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

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

1 [ARTICLE] 13

2 FOREIGN COOPERATIVES

3  
4 SECTION 1301. 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 (b) A foreign cooperative may not be denied a certificate of authority by reason of any  
9 difference between the laws of the jurisdiction under which the foreign cooperative is organized  
10 and the law of this state.

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

14 SECTION 1302. APPLICATION FOR CERTIFICATE OF AUTHORITY.

15 (a) A foreign cooperative may apply for a certificate of authority to transact business in  
16 this state by delivering an application to the [Secretary of State] for filing. The application must  
17 state:

18 (1) the name of the foreign cooperative and, if the name does not comply with  
19 Section 109, an alternative name adopted pursuant to Section 1305;

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

22 (3) the street and mailing addresses of the principal office and, if the laws of the

1 jurisdiction under which the foreign cooperative is organized require the foreign cooperative to  
2 maintain another office in that jurisdiction, the street and mailing addresses of the required  
3 office;

4 (4) the name and street and mailing addresses of the cooperative's initial agent  
5 for service of process in this state;

6 (5) the street and mailing addresses of a designated office in this state which may  
7 be the addresses of the agent for service of process in this state; and

8 (6) the name and street and mailing addresses of each of the foreign cooperative's  
9 current directors and officers.

10 (b) A foreign cooperative shall deliver with a completed application under subsection (a)  
11 a certificate of good standing [or existence] or a similar record signed by the [Secretary of State]  
12 or other official having custody of the cooperative's publicly filed records in the state or other  
13 jurisdiction under whose law the foreign cooperative is organized.

14 **SECTION 1303. ACTIVITIES NOT CONSTITUTING TRANSACTING**  
15 **BUSINESS.**

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

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

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

21 (3) maintaining accounts in financial institutions;

22 (4) maintaining offices or agencies for the transfer, exchange, and registration of

1 the foreign cooperative's own securities or maintaining trustees or depositories with respect to  
2 those securities;

3 (5) selling through independent contractors;

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

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

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

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

13 (10) transacting business in interstate commerce.

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

17 (c) This section does not apply in determining the contacts or activities that may subject a  
18 foreign cooperative to service of process, taxation, or regulation under any law of this state, other  
19 than this [act].

20 **SECTION 1304. FILING OF CERTIFICATE OF AUTHORITY.** Unless the  
21 [Secretary of State] determines that an application for a certificate of authority does not comply  
22 with the filing requirements of this [act], the [Secretary of State], upon payment of all filing fees,

1 shall file the application, prepare, sign, and file a certificate of authority to transact business in  
2 this state, and send a copy of the filed certificate, together with a receipt for the fees, to the  
3 foreign cooperative or its representative.

4 **SECTION 1305. NONCOMPLYING NAME OF FOREIGN COOPERATIVE.**

5 (a) A foreign cooperative whose name does not comply with Section 109 may not obtain  
6 a certificate of authority until it adopts, for the purpose of transacting business in this state, an  
7 alternative name that complies with Section 109. A foreign cooperative that adopts an  
8 alternative name under this subsection and then obtains a certificate of authority with that name  
9 need not comply with [fictitious or assumed name statute]. After obtaining a certificate of  
10 authority with an alternative name, a foreign cooperative's business in this state must be  
11 transacted under that name unless the foreign cooperative is authorized under [fictitious name  
12 statute] to transact business in this state under another name.

13 (b) If a foreign cooperative authorized to transact business in this state changes its name  
14 to one that does not comply with Section 109, it may not thereafter transact business in this state  
15 until it complies with subsection (a) and obtains an amended certificate of authority.

16 **SECTION 1306. REVOCATION OF CERTIFICATE OF AUTHORITY.**

17 (a) A certificate of authority of a foreign cooperative to transact business in this state  
18 may be revoked by the [Secretary of State] in the manner provided in subsection (b) if the foreign  
19 cooperative does not:

20 (1) pay, within 60 days after the due date, any fee, tax, or penalty due to the  
21 [Secretary of State] under this [act] or law of this state other than this [act];

22 (2) deliver, within 60 days after the due date, its annual report required under

Section 207;

(3) appoint and maintain an agent for service of process as required by Section 116; or

(4) deliver for filing a statement of change under Section 117 within 30 days after a change has occurred in the name or address of the agent.

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

(1) the revocation's effective date, which must be at least 60 days after the date the [Secretary of State] sends the copy; and

(2) the foreign cooperative's noncompliance under subsection (a) which is the reason for the revocation.

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

**SECTION 1307. CANCELLATION OF CERTIFICATE OF AUTHORITY;  
EFFECT OF FAILURE TO HAVE CERTIFICATE.**

(a) To cancel its certificate of authority to transact business in this state, a foreign cooperative must deliver to the [Secretary of State] for filing a notice of cancellation. The



1 certificate is canceled when the notice becomes effective under Section 203.

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

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

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

10 (e) If a foreign cooperative transacts business in this state without a certificate of  
11 authority or cancels its certificate of authority, it appoints the [Secretary of State] as its agent for  
12 service of process for action arising out of the transaction of business in this state.

13 **SECTION 1308. ACTION BY [ATTORNEY GENERAL].** The [Attorney General]  
14 may maintain an action to restrain a foreign cooperative from transacting business in this state in  
15 violation of this [article].

1 **[ARTICLE] 14**

2 **AMENDMENT OF ORGANIC RULES**

3  
4 **SECTION 1401. AUTHORITY TO AMEND ORGANIC RULES.**

5 (a) A limited cooperative association may amend its organic rules under this [article].

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

10 **SECTION 1402. NOTICE AND ACTION ON AMENDMENT OF ARTICLES OF**  
11 **ORGANIZATION OR BYLAWS.** To amend its organic rules:

12 (1) either:

13 (A) a majority of the association's board of directors, or a greater percentage if  
14 required by the organic rules, must approve the proposed amendment; or

15 (B) the board of directors must have received a petition in a record that:

16 (i) proposes an amendment; and

17 (ii) is signed by at least 10 percent of the patron members or 10 percent of  
18 the investor members; and

19 (2) the board of directors must call a special members' meeting to consider the  
20 amendment, to be held within 90 days following approval of the proposed amendment by the  
21 board or receipt by the board of a petition in accordance with paragraph (1)(B), and must mail or  
22 otherwise transmit or deliver in a record to each member:

1 (A) 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 (B) 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  
6 a favorable recommendation, the basis for that determination;

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

9 (D) 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 members' meeting.

11 **SECTION 1403. METHOD OF VOTING ON AMENDMENT OF ORGANIC**  
12 **RULES.** Members may vote on a proposed amendment to the organic rules as provided in  
13 Section 415.

14 **SECTION 1404. CHANGE TO AMENDMENT OF ORGANIC RULES AT**  
15 **MEETING.**

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

18 (b) Any change in an amendment to the organic rules at a meeting permitted by  
19 subsection (a) need not be separately voted upon by the board of directors.

20 (c) A vote to adopt a change to a proposed amendment to the organic rules permitted by  
21 subsection (a) must be the same vote required to pass a proposed amendment.

1                   **SECTION 1405. VOTING BY DISTRICT, CLASS OR VOTING GROUP.**

2                   (a) In addition to the approval required under Section 1406 if the organic rules provide  
3 for voting by district, class, or if there are one or more identifiable voting groups that a proposed  
4 amendment would affect differently from other members with respect to matters identified in  
5 Section 1406(c)(1) through (5), approval of the amendment to the organic rules requires the same  
6 quantum of votes of the members of that district, class, or voting group as required in Section  
7 1406.

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

12                   **SECTION 1406. APPROVAL OF AMENDMENT.**

13                   (a) Subject to Section 1405:

14                         (1) unless the organic rules otherwise provide, an amendment to the articles of  
15 organization must be approved by at least two-thirds of the voting power of all members present  
16 at a special members' meeting called under Section 1402; and

17                         (2) if the limited cooperative association has investor members, at least one-half  
18 of the votes cast by patron members are in the affirmative, but the organic rules may require a  
19 larger affirmative vote by patron members.

20                   (b) Subject to Section 1405 and subsection (c):

21                         (1) unless the organic rules otherwise provide, an amendment to the bylaws must  
22 be approved by at least a majority vote of the voting power of all members present at a special

1 members' meeting called under Section 1402.

2 (2) if a limited cooperative association has investor members at least one-half of  
3 the votes cast by patron members must be affirmative, but the organic rules may require a larger  
4 affirmative vote by patron members.

5 (c) The vote required under subsection (a) is required to amend bylaws if the proposed  
6 amendment modifies:

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

11 (2) the transferability of members' interests;

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

13 (4) the quorum for a meeting and rights of voting and governance not including  
14 the modification of district boundaries which may, unless otherwise provided in the organic  
15 rules, be determined by the board of directors; or

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

18 (d) Articles of organization may:

19 (1) reduce the quantum of voting power required under subsection (a)(1) to be  
20 voted affirmatively for amendment of the articles of organization to not less than a majority vote  
21 of members; and

22 (2) delegate amendment of the bylaws in whole or in part to the board of directors,

1 with or without member approval, subject to subsection (e), except for amendments concerning  
2 matters described in subsections (c)(1) through (5).

3 (e) Amendments to bylaws concerning matters described in subsections (c)(1) through (5)  
4 must be made by members as provided for amendments to the articles of incorporation in  
5 subsection (a).

6 (f) If the articles of organization delegate amendment of bylaws to the board of directors  
7 under subsection (d)(2), the board must provide a description of the amendment to the members  
8 in a record within 120 days after the amendment of the bylaws. The description may be provided  
9 at the next annual meeting of members if the meeting is held within the 120-day period.

#### 10 **SECTION 1407. EMERGENCY BYLAWS.**

11 (a) Unless the articles of organization otherwise provide, a limited cooperative  
12 association may adopt bylaws that are effective only in the case of an emergency caused by a  
13 catastrophic event. The emergency bylaws, which are subject to amendment or repeal by the  
14 members, may make all provisions necessary for managing the association during an emergency.

15 (b) Bylaws which are consistent with emergency bylaws adopted pursuant to subsection  
16 (a) remain effective during the emergency. The emergency bylaws are not effective after the  
17 emergency ends.

18 (c) Action taken by a limited cooperative association in good faith in accordance with  
19 emergency bylaws adopted under subsection (a):

20 (1) binds the association; and

21 (2) may not be used to impose liability on a director, officer, employee, or agent  
22 of the association.

1           **SECTION 1408. RESTATED ARTICLES OF ORGANIZATION.** A limited  
2 cooperative association, by the affirmative vote of a majority of all the members taken at a  
3 meeting for which the purpose is stated in the notice of the meeting, may adopt restated articles  
4 of organization that contain the original articles as previously amended. Restated articles may  
5 contain amendments if the restated articles are adopted in the same manner and with the same  
6 vote as required for amendments to the articles under Section 1406(a). Upon filing, restated  
7 articles supersede the existing articles and all amendments.

8           **SECTION 1409. AMENDMENT OR RESTATEMENT OF ARTICLES OF**  
9 **ORGANIZATION.**

10           (a) To amend its articles of organization, a limited cooperative association must deliver  
11 to the [Secretary of State] for filing an amendment of the articles of organization, or restated  
12 articles of organization or articles of conversion, merger, or consolidation pursuant to [Article]  
13 15 that contain one or more amendments of the articles of organization, stating:

- 14                   (1) the name of the cooperative association;
- 15                   (2) the date of filing of its initial articles of organization; and
- 16                   (3) the changes the amendment makes to the articles of organization as most  
17 recently amended or restated.

18           (b) Before the commencement of the initial meeting of the board of directors of a limited  
19 cooperative association, an organizer of the association which knows that information in the filed  
20 articles of organization was false when the articles were filed or has become false due to changed  
21 circumstances shall promptly:

- 22                   (1) cause the articles to be amended; or

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

3                   (c) Articles of organization may be amended at any time for any proper purpose as  
4 determined by the limited cooperative association.

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

7                   (e) Subject to Section 203, an amendment of the articles of organization or other record  
8 containing an amendment of the articles of organization which has been properly adopted by the  
9 members is effective when filed by the [Secretary of State].



1 [ARTICLE] 15

2 **CONVERSION, MERGER, AND CONSOLIDATION**

3  
4 **SECTION 1501. DEFINITIONS.** In this [article]:

5 (1) “Constituent limited cooperative association” means a limited cooperative  
6 association that is a party to a consolidation or merger.

7 (2) “Constituent entity” means an entity that is party to a consolidation or merger.

8 (3) “Converted entity” means the organization into which a converting entity converts  
9 pursuant to Sections 1502 through 1505.

10 (4) “Converting limited cooperative association” means a converting entity that is a  
11 limited cooperative association.

12 (5) “Converting entity” means an entity that converts into another entity pursuant to  
13 Sections 1502 through 1505.

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

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

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

22 (B) by the entity’s organizational documents under a provision of the entity’s

1 organic law authorizing those documents to make one or more specified persons liable for all or  
2 specified parts of the entity's debts, liabilities, and other obligations solely by reason of the  
3 person co-owning or having an interest in the entity.

4 (8) "Surviving entity" means an entity into which one or more other entities are merged.  
5 A surviving entity may exist before the merger or be created by the merger.

## 6 **SECTION 1502. CONVERSION.**

7 (a) An entity that is not a limited cooperative association may convert to a limited  
8 cooperative association and a limited cooperative association may convert to an entity that is not  
9 a limited cooperative association pursuant to this section, Sections 1503 through 1505, and a plan  
10 of conversion, if:

- 11 (1) the other entity's organic law authorizes the conversion;
- 12 (2) the conversion is not prohibited by the law of the jurisdiction that enacted the  
13 other entity's organic law; and
- 14 (3) the other entity complies with its organic law in effecting the conversion.

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

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

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

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

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

22

1           **SECTION 1503. ACTION ON PLAN OF CONVERSION BY CONVERTING**  
2           **LIMITED COOPERATIVE ASSOCIATION.**

3           (a) Unless the organic rules otherwise provide, for a limited cooperative association to  
4           convert to another entity:

5                   (1) a majority of the board of directors, or a greater percentage if required by the  
6           organic rules, must approve a plan of conversion;

7                   (2) the board of directors must call a special members' meeting to consider the  
8           plan of conversion, hold the meeting within 90 days following approval of the plan by the board,  
9           and mail or otherwise transmit or deliver in a record to each member :

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

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

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

17                   (D) notice of the meeting at which the proposed plan of conversion will  
18           be considered, which must be given in the same manner as notice of a special members' meeting;  
19           and

20           (3) the following apply:

21                   (A) unless the organic rules otherwise provide, a plan of conversion must  
22           be approved by at least a two-thirds vote of all members voting at the meeting.

1 (B) if the limited cooperative association has investor members, at least  
2 one-half of the votes cast by patron members must be affirmative, but the organic rules may  
3 require a larger affirmative vote by patron members.

4 (b) If as a result of the conversion any member of the converting limited cooperative  
5 association will have personal liability, consent in a record of that member must be delivered to  
6 the association before delivery of articles of conversion for filing pursuant to Section 1504.

7 (c) Subject to subsection (b) and any contractual rights, after a conversion is approved,  
8 and at any time before the effective date of the conversion, a converting limited cooperative  
9 association may amend a plan of conversion or abandon the planned conversion:

10 (1) as provided in the plan; and

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

13 (d) The voting requirements for districts, classes, or voting groups under Section 1405  
14 apply to approval of a conversion under this [article].

15 **SECTION 1504. FILINGS REQUIRED FOR CONVERSION; EFFECTIVE DATE.**

16 (a) After a plan of conversion is approved:

17 (1) a converting limited cooperative association shall deliver to the [Secretary of  
18 State] for filing articles of conversion, which must include:

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

21 (B) the name and form of the converted entity and the jurisdiction of its  
22 governing statute;

1 (C) the date the conversion is effective under the governing statute of the  
2 converted entity;

3 (D) a statement that the conversion was approved as required by this [act];

4 (E) a statement that the conversion was approved as required by the  
5 governing statute of the converted entity; and

6 (F) if the converted entity is an entity organized in a jurisdiction other than  
7 this state and is not authorized to transact business in this state, the street and mailing address of  
8 an office which the [Secretary of State] may use for purposes of Section 119; and

9 (2) if the converting entity is not a converting limited cooperative association, the  
10 converting entity shall deliver to the [Secretary of State] for filing articles of organization, which  
11 must include, in addition to the information required by Section 302:

12 (A) a statement that the association was converted from another entity;

13 (B) the name and form of the converting entity and the jurisdiction of its  
14 governing statute; and

15 (C) a statement that the conversion was approved in a manner that  
16 complied with the converting entity's governing statute.

17 (b) A conversion becomes effective:

18 (1) if the converted entity is a limited cooperative association, when the articles of  
19 conversion take effect; or

20 (2) if the converted entity is not a limited cooperative association, as provided by  
21 the governing statute of the converted entity.

1                   **SECTION 1505. 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:

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 of the rights, privileges, immunities,  
14                  powers, 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 agreed, the conversion does not dissolve a converting  
18                  limited cooperative association for purposes of [Article] 11.

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

1 is an entity organized under the laws of a jurisdiction other than this state and not authorized to  
2 transact business in this state appoints the [Secretary of State] as its agent for service of process  
3 for purposes of enforcing an obligation under this subsection. Service on the [Secretary of State]  
4 under this subsection is made in the same manner and with the same consequences as in Section  
5 119(c) and (d).

6 **SECTION 1506. MERGER.**

7 (a) One or more limited cooperative associations may merge with one or more other  
8 entities pursuant to this [article] and a plan of merger if:

- 9 (1) the governing statute of each of the other entities authorizes the merger;  
10 (2) the merger is not prohibited by the law of a jurisdiction that enacted any of  
11 those governing statutes; and  
12 (3) each of the other entities complies with its governing statute in effecting the  
13 merger.

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

- 15 (1) the name and form of each constituent entity;  
16 (2) the name and form of the surviving entity and, if the surviving entity is to be  
17 created by the merger, a statement to that effect;  
18 (3) the terms and conditions of the merger, including the manner and basis for  
19 converting the interests in each constituent entity into any combination of money, interests in the  
20 surviving entity, and other consideration;  
21 (4) if the surviving entity is to be created by the merger, the surviving entity's  
22 organizational documents;

1 (5) if the surviving entity is not to be created by the merger, any amendments to be  
2 made by the merger to the surviving entity's organizational documents; and

3 (6) if a member of a constituent limited cooperative association will have personal  
4 liability with respect to a surviving entity, the identity of the member by descriptive class or other  
5 reasonable manner.

6 **SECTION 1507. NOTICE AND ACTION ON PLAN OF MERGER BY**  
7 **CONSTITUENT LIMITED COOPERATIVE ASSOCIATION.**

8 (a) A plan of merger must be approved by a majority vote of the board of directors of a  
9 limited cooperative association or a greater percentage if required by the limited cooperative  
10 association's organic rules.

11 (b) The board of directors must call a special members' meeting to consider the plan of  
12 merger, hold the meeting within 90 days following approval of the plan by the board, and mail or  
13 otherwise transmit or deliver in a record to each member:

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

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

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

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



1           **SECTION 1508. APPROVAL OR ABANDONMENT OF MERGER BY**  
2           **MEMBERS OF CONSTITUENT LIMITED COOPERATIVE ASSOCIATION.**

3           (a) For members of a limited cooperative association to approve the merger:

4                   (1) unless the organic rules otherwise provide, a plan of merger must be approved  
5           by at least a two-thirds vote of all members voting at a special members' meeting called under  
6           Section 1507.

7                   (2) if a limited cooperative association has investor members , at least one-half of  
8           the affirmative votes cast by patron members must be affirmative, but the organic rules may  
9           require a larger affirmative vote by patron members.

10           (b) If as a result of the merger any member will have personal liability for an obligation of  
11           the association, consent in a record of that member must be delivered to the association before  
12           delivery of articles of merger for filing pursuant to Section 1509.

13           (c) Subject to any contractual rights, after a merger is approved, and at any time before the  
14           effective date of the merger, a constituent limited cooperative association that is a party to the  
15           merger may approve an amendment to the plan of merger or approve abandonment of the planned  
16           merger:

17                   (1) as provided in the plan; and

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

20           (d) The voting requirements for districts, classes, or voting groups under Section 1405  
21           apply to approval of a merger under this [article].  
22

1                   **SECTION 1509. FILINGS REQUIRED FOR MERGER; EFFECTIVE DATE.**

2                   (a) After each constituent entity has approved a merger, articles of merger must be signed  
3 on behalf of each constituent entity by an authorized representative.

4                   (b) The articles of merger must include:

5                         (1) the name and form of each constituent entity and the jurisdiction of its  
6 governing statute;

7                         (2) the name and form of the surviving entity, the jurisdiction of its governing  
8 statute, and, if the surviving entity is created by the merger, a statement to that effect;

9                         (3) the date the merger is effective under the governing statute of the surviving  
10 entity;

11                        (4) if the surviving entity is to be created by the merger:

12                                 (A) if it will be a limited cooperative association, the limited cooperative  
13 association's articles of organization; or

14                                 (B) if it will be an entity other than a limited cooperative association, the  
15 organizational document that creates the entity;

16                         (5) if the surviving entity preexists the merger, any amendments provided for in  
17 the plan of merger for the organizational document that created the entity;

18                         (6) a statement as to each constituent entity that the merger was approved as  
19 required by the entity's governing statute;

20                         (7) if the surviving entity is a foreign organization not authorized to  
21 transact business in this state, the street and mailing addresses of an office which the [Secretary of  
22 State] may use for the purposes of Section 119; and

(8) any additional information required by the governing statute of any constituent entity.

(c) Each constituent limited cooperative association shall deliver the articles of merger to the [office of the Secretary of State] for filing.

(d) A merger becomes effective under this [article]:

(1) if the surviving entity is a limited cooperative association, upon the later of:

(A) compliance with subsection (c); or

(B) subject to Section 203(c), as specified in the articles of merger; or

(2) if the surviving entity is not an association, as provided by the governing statute of the surviving entity.

**SECTION 1510. EFFECT OF MERGER.** When a merger becomes effective:

(1) the surviving entity continues or comes into existence;

(2) each constituent entity that merges into the surviving entity ceases to exist as a separate entity;

(3) all property owned by each constituent entity that ceases to exist vests in the surviving entity;

(4) all debts, liabilities, and other obligations of each constituent entity that ceases to exist continue as obligations of the surviving entity;

(5) an action or proceeding pending by or against any constituent entity that ceases to exist may be continued as if the merger had not occurred;

(6) except as prohibited by other law, all rights, privileges, immunities, powers, and purposes of each constituent entity that ceases to exist vest in the surviving entity;

1 (7) except as otherwise provided in the plan of merger, the terms and conditions of the  
2 plan take effect;

3 (8) except as otherwise provided in the plan of merger, if a constituent limited cooperative  
4 association ceases to exist, the merger does not dissolve the cooperative association for purposes  
5 of [Article] 11;

6 (9) if the surviving entity is created by the merger:

7 (A) if it is a limited cooperative association, the articles of organization become  
8 effective; or

9 (B) if it is an entity other than a limited cooperative association, the organizational  
10 document that creates the entity becomes effective; and

11 (10) if the surviving entity preexists the merger, any amendments provided for in the  
12 articles of merger for the organizational documents of the surviving entity become effective.

13 **SECTION 1511. CONSOLIDATION.**

14 (a) One or more limited cooperative associations may agree to call a merger a  
15 consolidation under this [article].

16 (b) All provisions governing mergers or using the term merger in this [act] apply equally  
17 to mergers that the constituent entities choose to call consolidations under subsection (a).

18 **SECTION 1512. [ARTICLE] NOT EXCLUSIVE.** This [article] does not preclude a  
19 limited cooperative association from being converted or merged under law other than this [act].

1 [ARTICLE] 16

2 DISPOSITION OF ASSETS

3  
4 SECTION 1601. DISPOSITION OF ASSETS NOT REQUIRING MEMBER

5 APPROVAL. Unless the articles of organization otherwise provide, and if conducted in the usual  
6 and regular course of business of a limited cooperative association, no member approval under  
7 Section 1602 is required for the association to:

8 (1) sell, lease, exchange, license, or otherwise dispose of all or any part of the assets of the  
9 association; or

10 (2) mortgage, pledge, dedicate to the repayment of indebtedness, or encumber in any way  
11 all or any part of the assets of the association.

12 SECTION 1602. MEMBER APPROVAL OF OTHER DISPOSITION OF ASSETS.

13 Subject to Section 1601, a sale, lease, exchange, license, or other disposition of assets requires  
14 approval of the limited cooperative association's members under Sections 1603 through 1605 if  
15 the disposition leaves the association without significant continuing business activity.

16 SECTION 1603. NOTICE AND ACTION ON DISPOSITION OF ASSETS. For a  
17 limited cooperative association to dispose of assets under Section 1602:

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

20 (2) the board of directors must call a special members' meeting to consider the proposed  
21 disposition, hold the meeting within 90 days following approval of the proposed disposition by  
22 the board, and mail or otherwise transmit or deliver in a record to each member :

1 (A) the terms of the proposed disposition;

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

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

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

9 **SECTION 1604. ACTION ON DISPOSITION OF ASSETS.**

10 (a) Unless the organic rules otherwise provide, a disposition of assets under Section 1602  
11 must be approved by at least a two-thirds vote of all members voting at a special members'  
12 meeting called under Section 1603.

13 (b) If the limited cooperative association has investor members, at least one-half of the  
14 votes cast by patron members must be affirmative, but the organic rules may require a larger  
15 affirmative vote by patron members.

16 (c) The voting requirements for districts, classes, or voting groups under Section 1405  
17 apply to approval of a disposition of assets under this [article].

1 **[ARTICLE] 17**

2 **MISCELLANEOUS PROVISIONS**

3  
4 **[SECTION 1701. RELATION TO RESTRAINT OF TRADE AND ANTITRUST**

5 **LAWS.** To the extent a limited cooperative association or activities conducted by a limited  
6 cooperative association in this state meet the material requirements, if any, for other cooperatives  
7 entitled to an exemption from or immunity under the antitrust laws of this state, the association  
8 and its activities are entitled to the exemption or immunity to which other cooperatives are  
9 entitled. Nothing in this section may be construed to create any new exemption or immunity for  
10 an association or to affect any exemption or immunity provided to a cooperative organized under  
11 any other [act].]

12 **SECTION 1702. REQUIREMENTS OF OTHER LAWS.**

13 (a) This act does not alter or amend any laws that govern the licensing and regulation of  
14 individuals or entities in carrying on specific businesses or professions even if those laws permit  
15 the businesses or professions to be conducted in or by a limited cooperative association, any  
16 foreign cooperative, or its members.

17 (b) A limited cooperative association may not conduct activities that, under other laws,  
18 must be conducted in an entity that meets specific requirements for the internal affairs of that  
19 entity unless the organic rules of the limited cooperative association conform to those  
20 requirements.

21 **SECTION 1703. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In

22 applying and construing this uniform act, consideration must be given to the need to promote

1 uniformity of the law with respect to its subject matter among states that enact it.

2           **SECTION 1704. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL**  
3 **AND NATIONAL COMMERCE ACT.** This [act] modifies, limits, or supersedes the federal  
4 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq. [as  
5 amended], but this [act] does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C.  
6 Section 7001(c) as amended) or authorize electronic delivery of any of the notices described in  
7 Section 103(b) of that act (15 U.S.C. Section 7003(b) as amended).

8           **SECTION 1705. SAVINGS CLAUSE.** This [act] does not affect an action or  
9 proceeding commenced, or right accrued, before [this [act] takes effect].

10           **SECTION 1706. EFFECTIVE DATE.** This [act] takes effect [effective date].