

DRAFT

FOR DISCUSSION ONLY

**HARMONIZED REVISED
UNIFORM LIMITED COOPERATIVE ASSOCIATION
ACT**

*(Amendments to Revised Uniform Limited Cooperative
Association Act)*

NATIONAL CONFERENCE OF COMMISSIONERS

ON UNIFORM STATE LAW

For September 24 – 26, 2010 Drafting Committee Meeting

Without Prefatory Note and with Reporters' Notes

Strike and Score Version

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By

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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September 13, 2010

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**HARMONIZED REVISED
UNIFORM LIMITED COOPERATIVE ASSOCIATION ACT**

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1 ~~(9)~~ (7) “Distribution,” except as ~~used~~ otherwise provided in Section 1007(e), means a
2 transfer of money or other property from a limited cooperative association to a ~~member person~~
3 ~~because of the member’s financial rights or to a transferee of a member’s financial rights~~ on
4 account of a transferable interest or in the person’s capacity as a member. The term includes:

5 (A) a redemption or other purchase by a limited cooperative association of a
6 transferable interest; and

7 (B) a transfer to a member in return for the member’s relinquishment of any right
8 to:

9 (i) participate as a member in the management or conduct of the limited
10 cooperative association’s activities; or

11 (ii) have access to records or other information concerning the limited
12 cooperative association’s activities.

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

14 ~~(11)~~ (8) “Financial rights” means the right to participate in allocations and distributions as
15 provided in [Articles] 10 and 12 but does not include rights or obligations under a marketing
16 contract governed by [Article] 7.

17 ~~(12)~~ (9) “Foreign cooperative” means an entity organized ~~in~~ under the law of a jurisdiction
18 other than this state ~~under a law similar to this [act]~~ and denominated by that law as a cooperative
19 or limited cooperative association.

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

22 ~~(14)~~ (10) “Investor member” means a ~~member person~~ that has made a contribution to a
23 limited cooperative association ~~and~~ but is not permitted by organic rules to conduct patronage

1 with the cooperative.

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

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

7 (15) ~~(11)~~ "Limited cooperative association" means an ~~association~~ entity organized under
8 this [act].

9 (16) ~~(12)~~ "Member" means a person that ~~is admitted as~~ has become a patron member or
10 investor member, ~~or both,~~ in a limited cooperative association and ~~The term does~~ has not include
11 ~~a person that has dissociated as a member under Section 1101.~~

12 (17) ~~"Member's interest" means the interest of a patron member or investor member~~
13 ~~under Section 601.~~

14 (18) ~~"Members meeting" means an annual members meeting or special meeting of~~
15 ~~members.~~

16 (19) ~~"Organic law" means the statute providing for the creation of an entity or principally~~
17 ~~governing its internal affairs.~~

18 (20) ~~"Organic rules" means the articles of organization and bylaws of a limited~~
19 ~~cooperative association.~~

20 (21) ~~(13)~~ "Organizer" means ~~an individual~~ a person who signs the initial articles of
21 ~~organization~~ that acts under Section 302 to organize a limited cooperative association.

22 (22) ~~(14)~~ "Patron member" means a ~~member~~ person that has made a contribution to a
23 limited cooperative association and is permitted by the articles of organization or by-laws to

1 conduct patronage with the cooperative.:

2 (A) ~~is required by the organic rules to conduct patronage with the association~~
3 ~~cooperative in the member's capacity as a patron member in order to receive the member's~~
4 ~~interest; or~~

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

7 (23) (15) "Patronage" means ~~business~~ transactions between a limited cooperative
8 association and a person ~~which entitle~~ entitling the person to receive ~~financial rights~~ distributions
9 based on the value or quantity of business ~~done~~ conducted ~~between with~~ the association and the
10 ~~person~~ limited cooperative association.

11 (24) (16) "Person" means an individual, ~~corporation, business trust, cooperative, estate,~~
12 ~~trust, partnership, limited partnership, limited liability company, limited cooperative association,~~
13 ~~joint venture, association, public corporation, government or governmental subdivision, agency,~~
14 ~~or instrumentality, or any other legal or commercial entity~~ business corporation, nonprofit
15 corporation, partnership, limited partnership, limited liability company, [general cooperative
16 association,] limited cooperative association, unincorporated nonprofit trust association, statutory
17 trust, business trust, common-law business trust, estate, trust, association, joint venture, public
18 corporation, government or governmental subdivision, agency, or instrumentality, or any other
19 legal or commercial entity.

20 (25) (17) "Principal office" means the principal executive office of a limited cooperative
21 association or foreign cooperative, whether or not the office is located in this state.

22 (18) "Property" means all property, whether real, personal, or mixed, or tangible or
23 intangible, or any right or interest therein.

1 ~~(26)~~ (19) “Record”, used as a noun, means information that is inscribed on a tangible
2 medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

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

5 ~~(28)~~ (20) “Sign” means, with present intent to authenticate or adopt a record:

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

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

9 ~~(29)~~ (21) “State” means a state of the United States, the District of Columbia, Puerto Rico,
10 the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction
11 of the United States.

12 ~~(30)~~ (22) “Transfer” includes an assignment, conveyance, sale, deed, bill of sale, lease,
13 encumbrance, including by mortgaging or granting a security interest, mortgage, security interest,
14 encumbrance, a gift, and transfer by operation of law.

15 (23) “Transferee” means a person to which all or part of financial rights has been
16 transferred, whether or not the transferor is a member.

17 ~~(31)~~ (24) “Voting group” means any combination of one or more voting members in one
18 or more districts or classes that under the organic rules or this [act] are entitled to vote and can be
19 counted together collectively on a matter at a members meeting.

20 ~~(32)~~ (25) “Voting member” means a member that, under the organic law or organic rules,
21 has a right to vote on matters subject to vote by members under the organic law or organic rules.

22 ~~(33)~~ (26) “Voting power” means the total current power of members to vote on a
23 particular matter for which a vote may or is to be taken.

1 **SECTION 103. LIMITED COOPERATIVE ASSOCIATION SUBJECT TO**
2 **AMENDMENT OR REPEAL OF [ACT].** A limited cooperative association governed by this
3 [act] is subject to any amendment or repeal of this [act].

4 **[CGB – Belongs in Miscellaneous Provisions?]**

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

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

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

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

13 (b) The fact that a limited association does not have one or more of the characteristics
14 described in subsection (a) does not alone prevent the association from being formed under and
15 governed by this [act] nor does it alone provide a basis for an action against the association.

16 **SECTION 105. PURPOSE AND DURATION OF LIMITED COOPERATIVE**
17 **ASSOCIATION.**

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

19 (b) A limited cooperative association may be organized for any lawful purpose described
20 in Section 104, whether or not for profit ~~[except designated prohibited purposes]~~.

21 ~~(c) Unless the articles of organization state a term for a limited cooperative association's~~
22 ~~existence, the~~ A limited cooperative association has perpetual duration.

23 **Legislative Note:** *This Act does not preclude a limited cooperative association organized under*
24 *this Act from pursuing any lawful purpose. If an adopting jurisdiction desires to prevent an*

1 *association under this Act from being used for a particular purpose, this can be accomplished as*
2 *follows. First, an exception for the particular purpose can be specified in subsection (b).*
3 *Second, if there is another statute in the adopting jurisdiction that governs the particular purpose*
4 *and that statute by its own terms does not already apply, the other statute could be amended to*
5 *ensure that no entity organized under this Act may pursue the purpose identified in the other*
6 *statute or that any entity organized under this Act will comply with the other statute. Third,*
7 *Section 109 may identify a particular purpose or statute with which this Act should be*
8 *coordinated; as is done in optional Section 109(c).*
9

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

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

- 15 (1) the internal affairs of a limited cooperative association; and
- 16 (2) the liability of a member as member and a director as director for the debts,
17 obligations, or other liabilities of a limited cooperative association.

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

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

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

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

1 requirements.

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

6 *Legislative Note: If an adopting jurisdiction has enacted the Uniform Common Interest
7 Ownership Act or the Model Real Estate Cooperative Act, the adopting jurisdiction should add
8 subsection (c).*

9
10 *The phrase “limited cooperative associations” should be added by amendment to other
11 statutes outside this Act that contain lists of entities and other law should be conformed as
12 appropriate.*

13
14 **[SECTION 110. RELATION TO RESTRAINT OF TRADE AND ANTITRUST**

15 **LAWS.** To the extent a limited cooperative association or its activities ~~conducted by the~~
16 ~~association~~ in this state meet the material requirements for other cooperatives entitled to an
17 exemption from or immunity under any provision of [the restraint of trade or antitrust laws of this
18 state], the limited cooperative association and its activities are entitled to the exemption or
19 immunity. This section does not create any new exemption or immunity for an limited
20 cooperative association or affect any exemption or immunity provided to a cooperative ~~organized~~
21 ~~under any other [law].~~

22 *Legislative Note: Some states’ existing general cooperative or marketing cooperative statutes
23 contain an exemption from state restraint of trade and antitrust laws. In the context of a
24 marketing cooperative such an exemption is historical and may be helpful because cooperatives
25 are united groups of producers that could be interpreted to be fixing prices.*

26
27 *This Section is bracketed because some states as a matter of policy do not include an
28 exception in their other cooperative statutes and, presumably, would not include them in this Act.
29 Moreover because this Act, unlike other cooperative statutes, allows for investor members, it can
30 be distinguished from cooperatives organized under other laws. It is appropriate, therefore, that
31 adopting jurisdictions consider if their existing policy should be applied to limited cooperative
32 associations.*

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SECTION 111. NAME.

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

[(a)][(b)] The name of a limited cooperative association must contain the words “limited cooperative association” or “limited cooperative” or the abbreviation “L.C.A.” or “LCA”. “Limited” may be abbreviated as “Ltd.”. “Cooperative” may be abbreviated as “Co-op” or “Coop”. “Association” may be abbreviated as “Assoc.” or “Assn.”. [[A limited cooperative association or a member may enforce the restrictions on the use of the term “cooperative” under this [act].] [or] [A limited cooperative association or a member may enforce the restrictions on the use of the term “cooperative” [insert cross-reference to other laws of this state].]]

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

- (1) the name of any entity organized or authorized to transact business in this state;
- (2) a name reserved under Section 112; and
- (3) an alternative name approved for a foreign cooperative authorized to transact business in this state.

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

- (1) the person with ownership rights to use the name consents in a record to the use and applies in a form satisfactory to the [Secretary of State] to change the name used or reserved to a name that is distinguishable upon the records of the [Secretary of State] from the name

1 applied for; or

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

4 **Legislative Note:** *The bracketed language in Sections 111(a) and 111(b) is optional. If the*
5 *adopting jurisdiction has existing limitations in other law on the use of the term “cooperative,”*
6 *this Section should be adopted to further the policy of the jurisdiction and to avoid violation of*
7 *the other law by limited cooperative associations. Section 111(b) requires “cooperative” or an*
8 *abbreviation thereof in a limited cooperative association’s name.*

9
10 *Many cooperative statutes include name protection provisions unique among*
11 *organizational laws. If the adopting jurisdiction has a prohibition of the use of the word*
12 *“cooperative” or a permitted abbreviation by any entity other than a cooperative organized*
13 *under a statute providing for the formation of cooperative entities, this Act will not violate that*
14 *statute if this Section is adopted with a reference to that statute in subsection (a). Moreover, if*
15 *this Section is adopted with a reference to the other statute in subsection (b), restrictions on the*
16 *use of the word “cooperative” or a permitted abbreviation under that statute may be enforced by*
17 *a limited cooperative association or a member of an association organized under this Act.*
18 *Alternatively, the adopting jurisdiction could amend the other statute to permit an association*
19 *organized under this Act to use the word “cooperative” or a permitted abbreviation without*
20 *violating that statute and to enforce the restrictions on the use of the word or abbreviations under*
21 *that statute.*

22
23 *If the adopting jurisdiction does not have a statute prohibiting the use of the word*
24 *“cooperative” or a permitted abbreviation by any entity that is not organized as a cooperative,*
25 *the adopting jurisdiction may wish to consider providing a prohibition and remedies in this*
26 *Section.*

27
28 **SECTION 112. RESERVATION OF NAME.**

29 (a) A person may reserve the exclusive use of the name of a limited cooperative
30 association, including a fictitious name for a foreign cooperative whose name is not available
31 under Section 111, by delivering an application to the [Secretary of State] for filing. The
32 application must set forth the name and address of the applicant and the name proposed to be
33 reserved. If the [Secretary of State] finds that the name applied for is available under Section
34 111, the [Secretary of State] shall reserve the name for the applicant’s exclusive use for a
35 nonrenewable period of 120 days.

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

7 **SECTION 113. EFFECT OF ~~ORGANIC RULES~~ ARTICLES AND BY-LAWS.**

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

12 Except as otherwise provided in subsections (b), (c), and (d), the articles of organization and by-
13 laws govern:

14 (1) relations among the members as members and between the members and the
15 limited cooperative association; and

16 (2) the activities of the limited cooperative association and the conduct of those
17 activities.

18 (b) To the extent the articles of organization and by-laws do not otherwise provide for a
19 matter described in subsection (a), this [act] governs the matter.

20 ~~(b)~~ (c) The by-laws may not alter ~~The matters referred to in paragraphs (1) through [(9)]~~
21 ~~[(11)] which may be varied only in~~ by the articles of organization: The articles may:

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

23 (2) limit or eliminate the acceptance of new or additional members by the initial

1 board of directors under Section 303(b);

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

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

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

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

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

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

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

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

15 [(11)] provide for permitting or making obligatory indemnification under Section
16 901(a); and]

17 [(10)] [(12)] provide for any matters that may be contained in the organic rules,
18 including those under subsection (c).

19 ~~(e) (d) The matters referred to in paragraphs (1) through (25) may be varied only in the~~
20 ~~organic rules. The organic rules may:~~ The following matters may be altered by either the articles
21 of organization or the by-laws, subject to the limitations stated in the referenced sections:

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

- 1 (2) provide restrictions on transactions between a member and an association
2 under Section 115;
- 3 (3) provide for the percentage and manner of voting on amendments to the organic
4 rules by district, class, or voting group under Section 404(a);
- 5 (4) provide for the percentage vote required to amend the bylaws concerning the
6 admission of new members under Section 405(e)(5);
- 7 (5) provide for terms and conditions to become a member under Section 502;
- 8 (6) restrict the manner of conducting members meetings under Sections 506(c)
9 and 507(e);
- 10 (7) designate the presiding officer of members meetings under Sections 506(e)
11 and 507(g);
- 12 (8) require a statement of purposes in the annual meeting notice under Section
13 508(b);
- 14 (9) increase quorum requirements for members meetings under Section 510 and
15 board of directors meetings under Section 815;
- 16 (10) allocate voting power among members, including patron members and
17 investor members, and provide for the manner of member voting and action as permitted by
18 Sections 511 through 517;
- 19 (11) authorize investor members and expand or restrict the transferability of
20 members' interests to the extent provided in Sections 602 through 604;
- 21 (12) provide for enforcement of a marketing contract under Section 704(a);
- 22 (13) provide for qualification, election, terms, removal, filling vacancies, and
23 member approval for compensation of directors in accordance with Sections 803 through 805,

1 807, 809, and 810;

2 (14) restrict the manner of conducting board meetings and taking action without a
3 meeting under Sections 811 and 812;

4 (15) provide for frequency, location, notice and waivers of notice for board
5 meetings under Sections 813 and 814;

6 (16) increase the percentage of votes necessary for board action under Section
7 816(b);

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

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

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

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

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

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

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

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

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

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

- 1 (C) a plan of conversion under Section 1603(a);
- 2 (D) a plan of merger under Section 1607(a); and
- 3 (E) a proposed disposition of assets under Section 1503(1); and
- 4 (25) vary the percentage of votes required for members approval of:
 - 5 (A) a resolution to dissolve under Section 1205;
 - 6 (B) an amendment to the organic rules under Section 405;
 - 7 (C) a plan of conversion under Section 1603;
 - 8 (D) a plan of merger under Section 1608; and
 - 9 (E) a disposition of assets under Section 1504.

10 ~~(d)~~ (e) The organic rules must address members’ contributions pursuant to Section 1001.

11 *Legislative Note: Bracketed subsections (a)(10) and (11) are illustrative. They apply only if the*
12 *adopting jurisdiction selects both the state general business corporation act in Sections 818 and*
13 *901 and the act so selected provides for modification of those standards in the articles of*
14 *incorporation. Thus, these provisions need to be conformed to the flexibility of choice provided*
15 *by those sections.*

16
17
18 **SECTION 114. REQUIRED INFORMATION.**

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

- 21 (1) a list containing the name, last known street address and, if different, mailing
22 address, and term of office of each director and officer;
- 23 (2) the initial articles of organization and all amendments to and restatements of
24 the articles, together with a signed copy of any power of attorney under which any article,
25 amendment, or restatement has been signed;
- 26 (3) the initial bylaws and all amendments to and restatements of the bylaws;
- 27 (4) all filed articles of merger and statements of conversion;

- 1 (5) all financial statements of the association for the six most recent years;
- 2 (6) the six most recent annual reports delivered by the association to the [Secretary
3 of State];
- 4 (7) the minutes of members meetings for the six most recent years;
- 5 (8) evidence of all actions taken by members without a meeting for the six most
6 recent years;
- 7 (9) a list containing:
- 8 (A) the name, in alphabetical order, and last known street address and, if
9 different, mailing address of each patron member and each investor member; and
- 10 (B) if the association has districts or classes of members, information from
11 which each current member in a district or class may be identified;
- 12 (10) the federal income tax returns, any state and local income tax returns, and any
13 tax reports of the association for the six most recent years;
- 14 (11) accounting records maintained by the association in the ordinary course of its
15 operations for the six most recent years;
- 16 (12) the minutes of directors meetings for the six most recent years;
- 17 (13) evidence of all actions taken by directors without a meeting for the six most
18 recent years;
- 19 (14) the amount of money contributed and agreed to be contributed by each
20 member;
- 21 (15) a description and statement of the agreed value of contributions other than
22 money made and agreed to be made by each member;
- 23 (16) the times at which, or events on the happening of which, any additional

1 contribution is to be made by each member;

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

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

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

9 (c) The ~~organic rules~~ articles of organization or by-laws may require that more
10 information be maintained.

11 [CGB – What happens if this list is not done?]

12 **SECTION 115. BUSINESS TRANSACTIONS OF MEMBER WITH LIMITED**
13 **COOPERATIVE ASSOCIATION.** Subject to Sections 818 and 819 and except as otherwise
14 provided in the organic rules or a specific contract relating to a transaction, a member may lend
15 money to and transact other business with a limited cooperative association in the same manner as
16 a person that is not a member.

17 ~~**SECTION 116. DUAL CAPACITY.** A person may have a patron member's interest~~
18 ~~and an investor member's interest. When such person acts as a patron member, the person is~~
19 ~~subject to this [act] and the organic rules governing patron members. When such person acts as~~
20 ~~an investor member, the person is subject to this [act] and the organic rules governing investor~~
21 ~~members.~~

22 [CGB – Why is 116 this not obvious?]

23 **SECTION 117. ~~DESIGNATED OFFICE AND~~ REGISTERED AGENT FOR**

1 **SERVICE OF PROCESS.**

2 (a) ~~A~~ Each limited cooperative association, ~~or a~~ and foreign cooperative that ~~has a~~
3 ~~certificate of authority~~ registered under Section 1404 to do business in this state, shall designate
4 and ~~continuously~~ maintain a registered agent in this state.

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

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

8 (b) ~~An agent for service of process of a limited cooperative association or foreign~~
9 ~~cooperative must be an individual who is a resident of this state or an entity that is authorized to~~
10 ~~do business in this state.~~ The designation of a registered agent pursuant to this subsection is an
11 affirmation under Section _____ by the limited cooperative association or foreign cooperative that
12 the designated person has consented to serve.

13 (b) A registered agent for a limited cooperative association or foreign cooperative must be
14 an individual who is a resident of this state or other person registered to do business in this state.

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

16 (1) to forward to the limited cooperative association or foreign cooperative at the
17 address most recently supplied to the agent by the entity any process, notice, or demand
18 pertaining to the entity which is served on or delivered to the agent; and

19 (2) if the registered agent resigns, to provide the notice required by Section _____ to
20 the entity at the address most recently supplied to the agent by the entity.

21 **SECTION 118. CHANGE OF ~~DESIGNATED OFFICE OR REGISTERED~~ AGENT**
22 **FOR SERVICE OF PROCESS OR ADDRESS FOR REGISTERED AGENT.**

23 (a) ~~Except as otherwise provided in Section 207(e), to~~ A limited cooperative association

1 ~~or foreign cooperative may change its designated office, its registered agent for service of~~
2 ~~process, or the street address or, if different, mailing address of its principal office, a limited~~
3 ~~cooperative association must deliver~~ or the address of its registered agent by delivering to the
4 [Secretary of State] for filing a statement of change ~~containing~~ which states:

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

6 (2) ~~the street address and, if different, mailing address of its designated office; the~~
7 information that is to be in effect as a result of the filing of the statement of change.

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

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

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

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

16 (1) ~~the name of the foreign cooperative;~~

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

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

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

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

1 The designation of a new registered agent pursuant to this section is an affirmation under Section
2 by the limited cooperative association or foreign cooperative that the designated person has
3 consented to serve.

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

6 **SECTION 119. RESIGNATION OF REGISTERED AGENT ~~FOR SERVICE OF~~**
7 **PROCESS.**

8 (a) ~~To resign as an agent for service of process of~~ A registered agent may resign as
9 registered agent for a limited cooperative association or foreign cooperative, the agent must
10 deliver by delivering to the [Secretary of State] for filing a statement of resignation containing the
11 name of the agent and the name of the association or foreign cooperative that states:

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

13 (2) the name of the agent;

14 (3) that the agent resigns from serving as registered agent for the limited
15 cooperative association or foreign cooperative; and

16 (4) the address of the limited cooperative association or foreign cooperative to
17 which the agent will send the notice required by subsection (c).

18 (b) ~~After receiving a statement of resignation under subsection (a), the [Secretary of State]~~
19 ~~shall file it and mail or otherwise provide or deliver a copy to the limited cooperative association~~
20 ~~or foreign cooperative at its principal office. A statement of resignation takes effect on the earlier~~
21 ~~of the 31st day after the day on which it is filed by the [Secretary of State] or the designation of a~~
22 ~~new registered agent for the limited cooperative association or foreign cooperative.~~

23 (c) ~~An agency for service of process of a limited cooperative association or foreign~~

1 ~~cooperative terminates on the earlier of:~~

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

4 (2) ~~when a record designating a new agent for service of process is delivered to the~~
5 ~~[Secretary of State] for filing on behalf of the association or foreign cooperative and becomes~~
6 ~~effective. A registered agent promptly shall furnish the limited cooperative association or foreign~~
7 ~~cooperative notice in a record of the date on which a statement of resignation was delivered to the~~
8 ~~[Secretary of State] for filing.~~

9 (d) When a statement of resignation takes effect, the registered agent ceases to have
10 responsibility for any matter subsequently served on, delivered to, or tendered to it as agent for
11 the limited cooperative association or foreign cooperative. The resignation does not affect any
12 contractual rights the company has against the agent or that the agent has against the limited
13 cooperative association or foreign cooperative.

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

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

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

22 (b) ~~If a limited cooperative association or foreign cooperative does not appoint or maintain~~
23 ~~an agent for service of process in this state or the agent for service of process cannot with~~

1 reasonable diligence be found at the address of the designated office on file with the [Secretary of
2 State], the [Secretary of State] is an agent of the association or foreign cooperative upon which
3 process, notice, or a demand may be served.

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

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

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

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

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

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

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

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

23 (b) If a limited cooperative association or foreign cooperative no longer has a registered

1 agent in this state or the agent cannot with reasonable diligence be served, the limited cooperative
2 association or foreign cooperative may be served by registered or certified mail, return receipt
3 requested, or by similar commercial delivery service, addressed to the entity at its principal office
4 in accordance with any applicable judicial rules and procedures and with the envelope
5 conspicuously marked “important legal notice” or with words of similar import. Service is
6 effected under this subsection on the earliest of:

7 (1) the date the limited cooperative association or foreign cooperative receives the
8 mail or delivery by a similar commercial delivery service;

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

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

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

18 (d) Service of process, notice, or demand on a registered agent must be in a written record.
19 Receipt of a written process, notice, or demand by the registered agent of a limited cooperative
20 association or foreign cooperative is receipt by the limited cooperative association or foreign
21 cooperative.

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

24

1 [ARTICLE] 2

2 FILING AND ANNUAL REPORTS

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

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

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

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

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

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

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

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

18 **Legislative Note:** *This Act contemplates signatures on all records delivered to the office where*
19 *records regarding entities are filed in a jurisdiction adopting this Act. Signatures may be*
20 *electronic. See Section 102(28). In those jurisdictions that do not require signatures, the*
21 *sections of the Act that require a signature should be revised to relate to the person causing the*
22 *record to be delivered for filing. This Act assumes other law in the adopting jurisdiction*
23 *addresses false filings with the appropriate filing officer.*
24
25

1 **SECTION 202. SIGNING AND FILING OF RECORDS PURSUANT TO**
2 **JUDICIAL ORDER .**

3 (a) If a person required by this [act] to sign or deliver a record to the [Secretary of State]
4 for filing does not do so, the [appropriate court], upon petition of an aggrieved person, may order:

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

6 or

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

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

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

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

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

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

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

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

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

10 (3) if the record specifies a delayed effective date but not an effective time, at
11 12:01 a.m. on the earlier of:

12 (A) the specified date; or

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

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

16 (A) the specified date; or

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

18 **SECTION 204. CORRECTING FILED RECORD .**

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

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

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

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

5 (3) correct the inaccurate information or defective signature.

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

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

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

11 **SECTION 205. LIABILITY FOR INACCURATE INFORMATION IN FILED**

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

17 *Legislative Note: In an adopting jurisdiction that does not require signatures on records*
18 *delivered for filing, the jurisdiction may want to consider revising the Section to cause the*
19 *liability to be applicable to the person or persons delivering the record for filing or causing the*
20 *record to be filed.*

21
22
23 **SECTION 206. CERTIFICATE OF GOOD STANDING OR AUTHORIZATION .**

24 (a) The [Secretary of State], upon request and payment of the required fee, shall furnish
25 any person that requests it a certificate of good standing for a limited cooperative association if
26 the records filed in the office of the [Secretary of State] show that the [Secretary of State] has

1 filed the association's articles of organization, that the association is in good standing, and that
2 the [Secretary of State] has not filed a statement of termination.

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

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

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

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

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

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

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

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

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

1 the [Secretary of State].

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

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

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

16 (f) If a limited cooperative association fails to deliver an annual report under this section,
17 the [Secretary of State] may proceed under Section 1211 to dissolve the association
18 administratively.

19 (g) If a foreign cooperative fails to deliver an annual report under this section, the
20 [Secretary of State] may revoke the certificate of authority of the cooperative.

21 *Legislative Note: In adopting jurisdictions that require entities to file reports with the [Secretary*
22 *of State] at times other than annually or at times different from those provided in this Section, this*
23 *Section should be revised accordingly.*

24
25
26 **SECTION 208. FILING FEES.** The filing fee for records filed under this [article] by

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

2 **Legislative Note:** *A jurisdiction adopting this Act should consider establishing fees in this Section*
3 *or cite to a fee structure statute concerning filing fees for records of limited partnerships or*
4 *limited liability companies in the jurisdiction and provide a fee schedule for limited cooperative*
5 *associations in the other statute.*

6
7 *If the adopting jurisdiction has a statute providing a unified fee structure the bracketed*
8 *language should be a cross-reference to the appropriate unified schedule.*

9

1 [ARTICLE] 3

2 FORMATION AND INITIAL ARTICLES OF ORGANIZATION OF LIMITED

3 COOPERATIVE ASSOCIATION

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

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

8 (a) To form a limited cooperative association, an organizer of the association must deliver
9 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 address and, if different, mailing address of the association's initial
13 designated office and the name of the association's initial agent for service of process at the
14 designated office;

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

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

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

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

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

1 become effective under Section 203(c).

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

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

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

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

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

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

18 (c) Initial directors need not be members.

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

21 **SECTION 304. BYLAWS.**

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

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

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

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

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

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

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

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

16 (6) a statement concerning:

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

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

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

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

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

6

1 [ARTICLE] 4

2 AMENDMENT OF ORGANIC RULES OF LIMITED COOPERATIVE ASSOCIATION

3 SECTION 401. AUTHORITY TO AMEND ORGANIC RULES .

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (b)(1) be:

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

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

5 (3) a combination of paragraphs(1) and (2).

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

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

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

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

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

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

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

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

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

23 (f) Except for the matters described in subsection (e), the articles of organization may

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

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

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

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

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

20 (1) the name of the association;

21 (2) the date of filing of the association's initial articles; and

22 (3) the changes the amendment makes to the articles as most recently amended or
23 restated.

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

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

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

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

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

12

1 [ARTICLE] 5

2 MEMBERS

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

5 *Legislative Note: The “two” in brackets means an adopting jurisdiction may increase the number*
6 *of required patron members required for a limited cooperative association to begin business. It*
7 *does not mean the number should be reduced unless the association is to be a wholly-owned*
8 *subsidiary of a cooperative.*
9

10
11 SECTION 502. BECOMING A MEMBER. A person becomes a member:

- 12 (1) as provided in the organic rules;
- 13 (2) as the result of a merger or conversion under [Article] 16; or
- 14 (3) with the consent of all the members.

15 SECTION 503. NO POWER AS MEMBER TO BIND ASSOCIATION. A member,
16 solely by reason of being a member, may not act for or bind the limited cooperative association.

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

21 SECTION 505. RIGHT OF MEMBER AND FORMER MEMBER TO
22 INFORMATION.

23 (a) Not later than 10 business days after receipt of a demand made in a record, a limited
24 cooperative association shall permit a member to obtain, inspect, and copy in the association’s
25 principal office required information listed in Section 114(a)(1) through (8) during regular
26 business hours. A member need not have any particular purpose for seeking the information. The

1 association is not required to provide the same information listed in Section 114(a)(2) through (8)
2 to the same member more than once during a six-month period.

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

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

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

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

11 (4) the demand is reasonable.

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

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

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

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

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

22 (d) A person dissociated as a member may obtain, inspect, and copy information available
23 to a member under subsection (a) or (b) by delivering a demand in a record to the limited

1 cooperative association in the same manner and subject to the same conditions applicable to a
2 member under subsection (b) if:

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

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

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

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

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

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

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

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

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

1 providing the information.

2 **SECTION 506. ANNUAL MEETING OF MEMBERS.**

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

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

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

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

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

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

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

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

20 (1) as provided in the organic rules;

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

23 (3) by demand in a record signed by members holding at least 20 percent of the

1 voting power of the persons in any district or class entitled to vote on the matter that is the
2 purpose of the meeting stated in the demand; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 **SECTION 511. VOTING BY PATRON MEMBERS.** Except as provided by Section
19 512(a), each patron member has one vote. The organic rules may allocate voting power among
20 patron members as provided in Section 512(a).

21 **SECTION 512. DETERMINATION OF VOTING POWER OF PATRON**
22 **MEMBER.**

23 (a) The organic rules may allocate voting power among patron members on the basis of

1 one or a combination of the following:

2 (1) one member, one vote;

3 (2) use or patronage;

4 (3) equity; or

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

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

8 **SECTION 513. VOTING BY INVESTOR MEMBERS.** If the organic rules provide
9 for investor members, each investor member has one vote, unless the organic rules otherwise
10 provide. The organic rules may provide for the allocation of investor member voting power by
11 class, classes, or any combination of classes.

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

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

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

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

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

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

1 **SECTION 515. MANNER OF VOTING.**

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

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

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

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

11 **SECTION 516. 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 entitled
14 to vote on the action consents in a record to the action.

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

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

18 **SECTION 517. DISTRICTS AND DELEGATES; CLASSES OF MEMBERS.**

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

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

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

1 members meetings.

2 (b) A delegate elected under subsection (a)(2) has one vote unless voting power is
3 otherwise allocated by the organic rules.

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

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

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

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

12

1 [ARTICLE] 6

2 MEMBER'S INTEREST IN LIMITED COOPERATIVE ASSOCIATION

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

4 (1) is personal property;

5 (2) consists of:

6 (A) governance rights;

7 (B) financial rights; and

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

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

11 SECTION 602. PATRON AND INVESTOR MEMBERS' INTERESTS.

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

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

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

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

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

20 SECTION 603. TRANSFERABILITY OF MEMBER'S INTEREST.

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

23 (b) Unless the organic rules otherwise provide, a member's interest other than financial

1 rights is not transferable.

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

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

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

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

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

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

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

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

17 **SECTION 604. SECURITY INTEREST AND SET-OFF.**

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

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

22 (c) The organic rules may provide that a limited cooperative association has a security
23 interest in the financial rights of a member to secure payment of any indebtedness or other

1 obligation of the member to the association. A security interest provided for in the organic rules
2 is enforceable under, and governed by, [reference to Article 9 of the Uniform Commercial Code].

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

6 **SECTION 605. CHARGING ORDERS FOR JUDGMENT CREDITOR OF**
7 **MEMBER OR TRANSFEREE.**

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

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

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

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

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

1 the charging order, does not thereby become a member, and is subject to Section 603.

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

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

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

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

16

1 [ARTICLE] 7

2 MARKETING CONTRACTS

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

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

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

10 SECTION 702. MARKETING CONTRACTS.

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

14 (b) A marketing contract may:

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

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

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

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

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

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

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

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

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

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

15

1 [ARTICLE] 8

2 DIRECTORS AND OFFICERS

3 SECTION 801. BOARD OF DIRECTORS.

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

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

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

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

17 SECTION 803. QUALIFICATIONS OF DIRECTORS.

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

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

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

- 3 (1) one, if there are two through four directors;
- 4 (2) two, if there are five through eight directors; or
- 5 (3) one-third of the total number of directors if there are at least nine directors.

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

8 **SECTION 804. ELECTION OF DIRECTORS AND COMPOSITION OF BOARD.**

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

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

- 11 (A) one, if there are two or three directors;
- 12 (B) two, if there are four or five directors;
- 13 (C) three, if there are six through eight directors; or
- 14 (D) one-third of the directors if there are at least nine directors; and

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

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

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

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

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

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

5 (g) Except as otherwise provided by the organic rules, subsection (e), or Sections 303,
6 516, 517, and 809, member directors must be elected at an annual members meeting.

7 **SECTION 805. TERM OF DIRECTOR.**

8 (a) Unless the organic rules otherwise provide, and subject to subsections (c) and (d) and
9 Section 303(c), the term of a director expires at the annual members meeting following the
10 director's election or appointment. The term of a director may not exceed three years.

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

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

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

17 **SECTION 806. RESIGNATION OF DIRECTOR.** A director may resign at any time
18 by giving notice in a record to the limited cooperative association. Unless the notice states a later
19 effective date, a resignation is effective when the notice is received by the association.

20 **SECTION 807. REMOVAL OF DIRECTOR.** Unless the organic rules otherwise
21 provide, the following rules apply:

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

23 (2) A member or members holding at least 10 percent of the total voting power entitled to

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

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

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

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

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

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

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

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

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

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

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

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

1 meeting or the director is removed.

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

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

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

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

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

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

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

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

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

19 **SECTION 811. MEETINGS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 assent to the action taken at the meeting; or

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

5 **SECTION 815. QUORUM.**

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

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

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

14 **SECTION 816. VOTING.**

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

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

19 **SECTION 817. COMMITTEES.**

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

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

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

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

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

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

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

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

12 (1) the discharge of the duties of a director or member of a committee of the board of
13 directors is governed by the law applicable to directors of entities organized under [reference to
14 this state’s cooperative corporation act or the general business corporation act]; and

15 (2) the liability of a director or member of a committee of the board of directors is
16 governed by the law applicable to directors of entities organized under [insert reference to this
17 state’s cooperative corporation act or to the general business corporation act].

18 *Legislative Note: Adopting jurisdictions should choose only one of the bracketed alternative*
19 *statutes to govern what has traditionally been called the “fiduciary duties” of directors. While*
20 *the listed laws are generally similar in most jurisdictions, they do not contain the same*
21 *formulation either between the laws in a given jurisdiction or between laws governing even the*
22 *same type of entity among various jurisdictions. Thus the choice of the bracketed law, including*
23 *any power to modify the law as referenced in optional Sections 113(b)(10) and (11), has policy*
24 *implications for limited cooperative associations organized under this Act.*

25
26 *Adopting jurisdictions should carefully coordinate the choices under this Section and*
27 *Sections 819 and 901.*
28

1 **SECTION 819. CONFLICT OF INTEREST.**

2 (a) The law applicable to conflicts of interest between a director of an entity organized
3 under [reference to this state’s cooperative corporation act or the general business corporation act]
4 governs conflicts of interest between a limited cooperative association and a director or member
5 of a committee of the board of directors.

6 (b) A director does not have a conflict of interest under this [act] or the organic rules
7 solely because the director’s conduct relating to the duties of the director may further the
8 director’s own interest.

9 *Legislative Note: See the Legislative Note to Section 818.*

10
11 **SECTION 820. OTHER CONSIDERATIONS OF DIRECTORS.** Unless the articles

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

- 16 (1) the interest of employees, customers, and suppliers of the association;
- 17 (2) the interest of the community in which the association operates; and
- 18 (3) other cooperative principles and values that may be applied in the context of the
19 decision.

20 **SECTION 821. RIGHT OF DIRECTOR OR COMMITTEE MEMBER TO**

21 **INFORMATION.** A director or a member of a committee appointed under Section 817 may
22 obtain, inspect, and copy all information regarding the state of activities and financial condition
23 of the limited cooperative association and other information regarding the activities of the
24 association if the information is reasonably related to the performance of the director’s duties as

1 director or the committee member's duties as a member of the committee. Information obtained
2 in accordance with this section may not be used in any manner that would violate any duty of or
3 to the association.

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

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

6 (1) provided in the organic rules; or

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

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

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

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

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

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

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

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

23 (b) An officer of a limited cooperative association may resign at any time by giving

1 notice in a record to the association. Unless the notice specifies a later time, the resignation is
2 effective when the notice is given.

3

1 [ARTICLE] 9

2 INDEMNIFICATION

3 *Legislative Note: See the Legislative Note to Section 818. Adopting jurisdictions should*
4 *coordinate the selection of the bracketed references with the selections made in conjunction with*
5 *Sections 818 and 819. As with standards of conduct and liability and conflicts of interest, the*
6 *matter of indemnification of directors and officers of an entity can be among the most complex*
7 *and important in a statute governing an entity. Because most, if not all, adopting jurisdictions*
8 *will have addressed this issue in statutes relating to corporations or in other cooperative statutes,*
9 *an adopting jurisdiction should consistently reference one of the bracketed statutes to provide a*
10 *workable and comprehensive policy with respect to indemnification and the right of a limited*
11 *cooperative association to provide insurance.*
12

13 SECTION 901. INDEMNIFICATION.

14 (a) Indemnification of an individual who has incurred liability or is a party, or is
15 threatened to be made a party, to litigation because of the performance of a duty to, or activity on
16 behalf of, a limited cooperative association is governed by [reference to this state’s cooperative
17 corporation act or this state’s general business corporation act].

18 (b) A limited cooperative association may purchase and maintain insurance on behalf of
19 any individual against liability asserted against or incurred by the individual to the same extent
20 and subject to the same conditions as provided by [reference to this state’s cooperative
21 corporation act or this state’s general business corporation act].
22

1 [ARTICLE] 10

2 CONTRIBUTIONS, ALLOCATIONS, AND DISTRIBUTIONS

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

7 *Legislative Note: The type of property that is permitted to be contributed to organizations and*
8 *entities is sometimes, though increasingly rarely, a subject contained in state constitutions.*
9 *Adopting jurisdictions should review their constitutions for the existence of inconsistent*
10 *provisions and revise this Section to be consistent therewith.*

11
12
13 SECTION 1002. CONTRIBUTION AND VALUATION.

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

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

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

24 *Legislative Note: The type of property that is permitted to be contributed to organizations and*
25 *entities is sometimes, though increasingly rarely, the subject of state constitutions. Adopting*
26 *jurisdictions should review their constitutions for the existence of inconsistent provisions and*
27 *revise this Section accordingly.*
28

1 **SECTION 1003. CONTRIBUTION AGREEMENTS.**

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

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

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

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

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

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

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

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

23 (b) Unless the organic rules otherwise provide, all profits and losses of a limited

1 cooperative association must be allocated to patron members.

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

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

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

9 (d) Unless prohibited by the organic rules, in determining the profits for allocation under
10 subsections (a), (b), and (c), the board of directors may first deduct and set aside a part of the
11 profits to create or accumulate:

12 (1) an unallocated capital reserve; and

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

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

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

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

23 (f) For purposes of allocation of profits and losses or specific items of profits or losses of

1 a limited cooperative association to members, the organic rules may establish allocation units or
2 methods based on separate classes of members or, for patron members, on class, function,
3 division, district, department, allocation units, pooling arrangements, members' contributions, or
4 other equitable methods.

5 **SECTION 1005. DISTRIBUTIONS.**

6 (a) Unless the organic rules otherwise provide and subject to Section 1007, the board of
7 directors may authorize, and the limited cooperative association may make, distributions to
8 members.

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

12 **SECTION 1006. REDEMPTION OR REPURCHASE.** Property distributed to a
13 member by a limited cooperative association, other than money, may be redeemed or repurchased
14 as provided in the organic rules but a redemption or repurchase may not be made without
15 authorization by the board of directors. The board may withhold authorization for any reason in
16 its sole discretion. A redemption or repurchase is treated as a distribution for purposes of Section
17 1007.

18 **SECTION 1007. LIMITATIONS ON DISTRIBUTIONS.**

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

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

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

23 (b) A limited cooperative association may base a determination that a distribution is not

1 prohibited under subsection (a) on financial statements prepared on the basis of accounting
2 practices and principles that are reasonable in the circumstances or on a fair valuation or other
3 method that is reasonable in the circumstances.

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

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

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

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

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

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

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

21 **SECTION 1008. LIABILITY FOR IMPROPER DISTRIBUTIONS; LIMITATION**
22 **OF ACTION.**

23 (a) A director who consents to a distribution that violates Section 1007 is personally

1 liable to the limited cooperative association for the amount of the distribution which exceeds the
2 amount that could have been distributed without the violation if it is established that in consenting
3 to the distribution the director failed to comply with Section 818 or 819.

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

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

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

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

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

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

18 *Legislative Note: Section 1009 is bracketed because it represents a unique policy decision that*
19 *concerns both limited cooperative associations and state securities law. If the adopting*
20 *jurisdiction has a securities exemption for general cooperatives located in cooperative statutes, it*
21 *should determine whether the jurisdiction is best served by including limited cooperative*
22 *associations within the existing exemption by referencing the statutory provision here. If the*
23 *adopting jurisdiction's free standing securities law has a specific exemption or definitional*
24 *exclusion for cooperatives this optional Section needs not be included but the adopting*
25 *jurisdiction might consider whether limited cooperative associations should be treated similarly*
26 *by that statutory provision.*
27

28 **[SECTION 1010. ALTERNATIVE DISTRIBUTION OF UNCLAIMED**

1 **PROPERTY, DISTRIBUTIONS, REDEMPTIONS, OR PAYMENTS.** A limited
2 cooperative association may distribute unclaimed property, distributions, redemptions, or
3 payments under [reference to the appropriate provision in the law governing cooperatives not
4 formed under this [act] in this state].]

5 *Legislative Note: The general cooperative law of some, but not all states, contains a provision*
6 *unique to cooperatives concerning the disposition of unclaimed property. Some of these*
7 *provisions allow unclaimed property to revert to the cooperative if, after reasonable search, the*
8 *member cannot be found; others may allow the cooperative to donate unclaimed property to a*
9 *charity. See, e.g., OREGON REV. STAT. § 62.425 (2003). In states having such a provision the*
10 *legislature should consider as a matter of policy whether the same provision should be applicable*
11 *to limited cooperative associations. This is the appropriate place in this Act for referencing the*
12 *provision contained in other law of the adopting jurisdiction and thereby incorporating it by*
13 *reference. If the referenced statute in a given state requires the cooperative's articles or bylaws*
14 *to authorize the use of the statutory provision, the authorization requirement should be added in*
15 *the appropriate subsection of Section 113.*
16

1 [ARTICLE] 11

2 DISSOCIATION

3 SECTION 1101. MEMBER'S DISSOCIATION.

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

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

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

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

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

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

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

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

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

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

- 1 (3) the member is expelled as a member under the organic rules;
- 2 (4) the member is expelled as a member by the board of directors because:
- 3 (A) it is unlawful to carry on the association's activities with the member
- 4 as a member;
- 5 (B) there has been a transfer of all the member's financial rights in the
- 6 association, other than:
- 7 (i) a creation or perfection of a security interest; or
- 8 (ii) a charging order in effect under Section 5605 which has not
- 9 been foreclosed;
- 10 (C) the member is a limited liability company, association, or partnership,
- 11 which has been dissolved, and its business is being wound up; or
- 12 (D) the member is a corporation or cooperative and:
- 13 (i) the member filed a certificate of dissolution or the equivalent, or
- 14 the jurisdiction of formation revoked the association's charter or right to conduct business;
- 15 (ii) the association sends a notice to the member that it will be
- 16 expelled as a member for a reason described in clause (i); and
- 17 (iii) not later than 90 days after the notice was sent under clause
- 18 (ii), the member did not revoke its certificate of dissolution or the equivalent, or the jurisdiction
- 19 of formation did not reinstate the association's charter or right to conduct business; or
- 20 (E) the member is an individual and is adjudged incompetent;
- 21 (5) in the case of a member who is an individual, the individual dies;
- 22 (6) in the case of a member that is a trust or is acting as a member by virtue of
- 23 being a trustee of a trust, all the trust's financial rights in the association are distributed;

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

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

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

7 **SECTION 1102. EFFECT OF DISSOCIATION AS MEMBER.**

8 (a) Upon a member's dissociation:

9 (1) subject to Section 1103, the person has no further rights as a member; and

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

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

16 **SECTION 1103. POWER OF ESTATE OF MEMBER.** Unless the organic rules
17 provide for greater rights, if a member is dissociated because of death, dies or is expelled by
18 reason of being adjudged incompetent, the member's personal representative or other legal
19 representative may exercise the rights of a transferee of the member's financial rights and, for
20 purposes of settling the estate of a deceased member, may exercise the informational rights of a
21 current member to obtain information under Section 505.

22

1 [ARTICLE] 12

2 DISSOLUTION

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

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

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

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

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

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

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

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

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

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

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

1 it by law; or

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

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

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

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

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

12 **SECTION 1204. VOLUNTARY DISSOLUTION BEFORE COMMENCEMENT**

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

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

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

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

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

1 (3) the board of directors must mail or otherwise transmit or deliver to each
2 member in a record that complies with Section 508:

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

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

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

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

10 (1) at least two-thirds of the voting power of members present at a members
11 meeting called under subsection (a)(2); and

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

14 (c) The organic rules may require that the percentage of votes under subsection (b)(1) is:

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

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

18 (3) a combination of paragraphs (1) and (2).

19 **SECTION 1206. WINDING UP.**

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

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

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

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

5 (3) prosecute and defend actions and proceedings;

6 (4) transfer association property; and

7 (5) perform other necessary acts.

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

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

13 (2) the applicant establishes other good cause.

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

17 **SECTION 1207. DISTRIBUTION OF ASSETS IN WINDING UP LIMITED**
18 **COOPERATIVE ASSOCIATION.**

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

23 (b) Unless the organic rules otherwise provide, in this subsection "financial interests"

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

8 **SECTION 1208. KNOWN CLAIMS AGAINST DISSOLVED LIMITED**
9 **COOPERATIVE ASSOCIATION.**

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

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

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

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

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

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

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

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

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

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

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

7 (A) after the 120-day period; and

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

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

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

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

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

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

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

23 (3) state that a claim against the association is barred unless an action to enforce

1 the claim is commenced not later than three years after publication of the notice.

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

6 (1) a claimant that is entitled to but did not receive notice in a record under
7 Section 1208; and

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

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

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

13 (2) if the association's assets have been distributed in connection with winding up
14 the association's activities against a member or holder of financial rights to the extent of that
15 person's proportionate share of the claim or the association's assets distributed to the person in
16 connection with the winding up, whichever is less. The person's total liability for all claims
17 under this paragraph shall not exceed the total amount of assets distributed to the person as part of
18 the winding up of the association.

19 **SECTION 1210. COURT PROCEEDING.**

20 (a) Upon application by a dissolved limited cooperative association that has published a
21 notice under Section 1209, the [appropriate court] in the [county] where the association's
22 principal office is located or, if the association does not have a principal office in this state where
23 its designated office in this state is located, may determine the amount and form of security to be

1 provided for payment of claims against the association that are contingent, have not been made
2 known to the association, or are based on an event occurring after the effective date of dissolution
3 but that, based on the facts known to the association, are reasonably anticipated to arise after the
4 effective date of dissolution.

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

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

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

17 **SECTION 1211. ADMINISTRATIVE DISSOLUTION.**

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

20 (1) pay, not later than 60 days after the due date, any fee, tax, or penalty due to the
21 [Secretary of State] under this [act] [or other law]; or

22 (2) deliver not later than 60 days after the due date its annual report to the
23 [Secretary of State].

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

4 (c) If, not later than 60 days after service of a copy of the [Secretary of State's]
5 determination under subsection (b), the association does not correct each ground for dissolution
6 or demonstrate to the satisfaction of the [Secretary of State] that each uncorrected ground
7 determined by the [Secretary of State] does not exist, the [Secretary of State] shall dissolve the
8 association administratively by preparing and filing a declaration of dissolution which states the
9 grounds for dissolution. The [Secretary of State] shall serve the association with a copy of the
10 declaration.

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

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

15 *Legislative Note: In adopting jurisdictions that do not generally permit administrative*
16 *dissolution of entities that do not pay required fees, taxes or penalties to governmental agencies*
17 *other than the [Secretary of State], the words "or other law" in Section 1211(a)(1) should be*
18 *deleted.*
19

20 **SECTION 1212. REINSTATEMENT FOLLOWING ADMINISTRATIVE**
21 **DISSOLUTION.**

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

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

1 dissolution;

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

3 and

4 (3) that the association's name satisfies the requirements of Section 111.

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

7 (1) prepare a declaration of reinstatement;

8 (2) file the original of the declaration; and

9 (3) serve a copy of the declaration on the association.

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

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

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

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

23 (c) The court may summarily order the [Secretary of State] to reinstate the dissolved

1 cooperative association or may take other action the court considers appropriate.]

2 **Legislative Note:** *Some adopting jurisdictions may have provisions addressing the matters*
3 *contained in subsections (b) and (c) either in an administrative procedures act or in a free*
4 *standing statute governing this process across all entity types. Those jurisdictions should not*
5 *adopt subsections (b) and (c) but should include limited cooperative associations within the other*
6 *statutes. If an adopting jurisdiction adopts subsections (b) and (c), in subsection (b) it should*
7 *specify the court with appropriate jurisdiction.*

8

9 **SECTION 1214. STATEMENT OF DISSOLUTION.**

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

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

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

- 16 (1) 90 days after a statement of dissolution is filed; or
- 17 (2) the effective date stated in the statement of dissolution.

18 **SECTION 1215. STATEMENT OF TERMINATION.**

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

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

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

26

1 **[[ARTICLE] 13**

2 **ACTION BY MEMBER**

3 *Legislative Note: This entire [Article] is bracketed to indicate its adoption is optional depending*
4 *on whether an adopting jurisdiction places the substantive law regarding derivative actions in its*
5 *statutes relating to entities or in its civil procedure law including its rules of civil procedure. If*
6 *an adopting jurisdiction places derivative actions in its entity statutes, this [Article] should be*
7 *adopted. If the adopting jurisdiction places provisions concerning derivative actions in its civil*
8 *procedure law, this [article] should not be adopted although the adopting jurisdiction could*
9 *place a reference to that law as the text of this [Article]. If the adopting jurisdiction's laws*
10 *regarding derivative actions specifically reference particular types of entities to which derivative*
11 *actions are to be applicable, this [Act] should be referenced in those laws.*
12
13

14 **SECTION 1301. DERIVATIVE ACTION.** A member may maintain a derivative

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

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

17 (2) any of the following occur:

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

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

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

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

25 **SECTION 1302. PROPER PLAINTIFF.**

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

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

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

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

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

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

7 **SECTION 1303. PLEADING.** In a derivative action to enforce a right of a limited
8 cooperative association, the complaint must state:

9 (1) the date and content of the plaintiff's demand under Section 1301(1) and the
10 association's response;

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

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

15 **SECTION 1304. APPROVAL FOR DISCONTINUANCE OR SETTLEMENT.** A
16 derivative action to enforce a right of a limited cooperative association may not be discontinued
17 or settled without the court's approval.

18 **SECTION 1305. PROCEEDS AND EXPENSES.**

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

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

23 (2) if the plaintiff in the derivative action receives any proceeds, the plaintiff shall

1 immediately remit them to the association.

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

5

1 [ARTICLE] 14

2 FOREIGN COOPERATIVES

3 SECTION 1401. GOVERNING LAW.

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

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

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

13 SECTION 1402. APPLICATION FOR CERTIFICATE OF AUTHORITY.

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

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

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

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

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

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

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

10 *Legislative Note: This [Act] refers to a certificate of good standing rather than a certificate of*
11 *existence. If an adopting jurisdiction generally uses the term "certificate of existence" that term*
12 *should be substituted for "certificate of good standing" in subsection (b).*
13

14 **SECTION 1403. 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 directors or carrying
20 on any other activity concerning the foreign cooperative's internal affairs;

21 (3) maintaining accounts in financial institutions;

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

25 (5) selling through independent contractors;

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

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

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

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

10 (10) transacting business in interstate commerce.

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

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

17 **SECTION 1404. ISSUANCE OF CERTIFICATE OF AUTHORITY.** Unless the
18 [Secretary of State] determines that an application for a certificate of authority does not comply
19 with the filing requirements of this [act], the [Secretary of State], upon payment by the foreign
20 cooperative of all filing fees, shall file the application, issue a certificate of authority, and send a
21 copy of the filed certificate, together with a receipt for the fees, to the foreign cooperative or its
22 representative.

1 **SECTION 1405. NONCOMPLYING NAME OF FOREIGN COOPERATIVE.**

2 (a) A foreign cooperative whose name does not comply with Section 111 may not obtain
3 a certificate of authority until it adopts, for the purpose of transacting business in this state, an
4 alternative name that complies with Section 111. A foreign cooperative that adopts an alternative
5 name under this subsection and then obtains a certificate of authority with that name need not also
6 comply with [reference this state’s fictitious or assumed name statute]. After obtaining a
7 certificate of authority with an alternative name, a foreign cooperative’s business in this state
8 must be transacted under that name unless the foreign cooperative is authorized under [reference
9 this state’s fictitious or assumed name statute] to transact business in this state under another
10 name.

11 (b) If a foreign cooperative authorized to transact business in this state changes its name
12 to one that does not comply with Section 111, it may not thereafter transact business in this state
13 until it complies with subsection (a) and obtains an amended certificate of authority.

14 **SECTION 1406. REVOCATION OF CERTIFICATE OF AUTHORITY.**

15 (a) A certificate of authority may be revoked by the [Secretary of State] in the manner
16 provided in subsection (b) if the foreign cooperative does not:

17 (1) pay, not later than 60 days after the due date, any fee, tax, or penalty due to the
18 [Secretary of State] under this [act] [or law of this state other than this [act]];

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

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

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

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

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

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

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

12 *Legislative Note: In adopting jurisdictions that do not generally permit a certificate of authority*
13 *to be revoked because entities do not pay required fees, taxes or penalties to governmental*
14 *agencies other than the [Secretary of State], the words “or law of this state other than this [act]”*
15 *in subsection (a) should be deleted. If an adopting jurisdiction provides for fees, taxes or*
16 *penalties in another statute, reference to that statute should be made in subsection (a).*
17
18

19 **SECTION 1407. CANCELLATION OF CERTIFICATE OF AUTHORITY;**
20 **EFFECT OF FAILURE TO HAVE CERTIFICATE.**

21 (a) To cancel its certificate of authority, a foreign cooperative must deliver to the
22 [Secretary of State] for filing a notice of cancellation. The certificate is canceled when the notice
23 becomes effective under Section 203.

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

26 (c) The failure of a foreign cooperative to have a certificate of authority does not impair
27 the validity of a contract or act of the foreign cooperative or prevent the foreign cooperative from

1 defending an action or proceeding in this state.

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

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

8 **SECTION 1408. ACTION BY [ATTORNEY GENERAL].** The [Attorney General]
9 may maintain an action to restrain a foreign cooperative from transacting business in this state in
10 violation of this [article].

11

1 [ARTICLE] 15

2 DISPOSITION OF ASSETS

3 SECTION 1501. DISPOSITION OF ASSETS NOT REQUIRING MEMBER

4 APPROVAL. Unless the articles of organization otherwise provide, member approval under
5 Section 1502 is not required for a limited cooperative association to:

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

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

11 SECTION 1502. MEMBER APPROVAL OF OTHER DISPOSITION OF ASSETS.

12 A sale, lease, exchange, license, or other disposition of assets of a limited cooperative association,
13 other than a disposition described in Section 1501, requires approval of the association's
14 members under Sections 1503 and 1504 if the disposition leaves the association without
15 significant continuing business activity.

16 SECTION 1503. NOTICE AND ACTION ON DISPOSITION OF ASSETS. For a

17 limited cooperative association to dispose of assets under Section 1502:

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 members meeting to consider the proposed
21 disposition, hold the meeting not later than 90 days after approval of the proposed disposition by
22 the board, and mail or otherwise transmit or deliver in a record to each member:

23 (A) the terms of the proposed disposition;

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

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

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

8 **SECTION 1504. DISPOSITION OF ASSETS.**

9 (a) Subject to subsection (b), a disposition of assets under Section 1502 must be approved
10 by:

11 (1) at least two-thirds of the voting power of members present at a members
12 meeting called under Section 1503(2); and

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

16 (b) The organic rules may require that the percentage of votes under subsection (a)(1) is:

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

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

20 (3) a combination of paragraphs (1) and(2).

21 (c) Subject to any contractual obligations, after a disposition of assets is approved and at
22 any time before the consummation of the disposition, a limited cooperative association may
23 approve an amendment to the contract for disposition or the resolution authorizing the disposition

1 or approve abandonment of the disposition:

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

3 (2) except as prohibited by the resolution, with the same affirmative vote of the

4 board of directors and of the members as was required to approve the disposition.

5 (d) The voting requirements for districts, classes, or voting groups under Section 404

6 apply to approval of a disposition of assets under this [article].

7

1 [ARTICLE] 16

2 CONVERSION AND MERGER

3 SECTION 1601. DEFINITIONS. In this [article]:

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

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

7 (3) “Converted entity” means the organization into which a converting entity converts
8 pursuant to Sections 1602 through 1605.

9 (4) “Converting entity” means an entity that converts into another entity pursuant to
10 Sections 1602 through 1605.

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

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

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

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

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

1 owns or has an interest in the entity.

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

4 **SECTION 1602. CONVERSION.**

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

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

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

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

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

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

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

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

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

20 **SECTION 1603. ACTION ON PLAN OF CONVERSION BY CONVERTING**
21 **LIMITED COOPERATIVE ASSOCIATION.**

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

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

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

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

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

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

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

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

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

19 (c) The organic rules may require that the percentage of votes under subsection (b)(1) is:

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

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

23 (3) a combination of paragraphs (1) and (2).

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

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

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

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

- 12 (1) as provided in the plan; and
- 13 (2) except as prohibited by the plan, by the same affirmative vote of the board of
14 directors and of the members as was required to approve the plan.

15 (g) The voting requirements for districts, classes, or voting groups under Section 404
16 apply to approval of a conversion under this [article].

17 **SECTION 1604. FILINGS REQUIRED FOR CONVERSION; EFFECTIVE DATE.**

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

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

- 21 (A) a statement that the limited cooperative association has been converted
22 into another entity;
- 23 (B) the name and form of the converted entity and the jurisdiction of its

1 governing statute;

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

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

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

7 (F) if the converted entity is an entity organized in a jurisdiction other than
8 this state and is not authorized to transact business in this state, the street address and, if different,
9 mailing address of an office which the [Secretary of State] may use for purposes of Section 120;
10 and

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

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

15 (B) the name and form of the converting entity and the jurisdiction of its
16 governing statute; and

17 (C) a statement that the conversion was approved in a manner that
18 complied with the converting entity's governing statute.

19 (b) A conversion becomes effective:

20 (1) if the converted entity is a limited cooperative association, when the articles of
21 conversion take effect pursuant to Section 203(c); or

22 (2) if the converted entity is not a limited cooperative association, as provided by
23 the governing statute of the converted entity.

1 **SECTION 1605. EFFECT OF CONVERSION.**

2 (a) An entity that has been converted pursuant to this [article] is for all purposes the same
3 entity that existed before the conversion and is not a new entity but, after conversion, is organized
4 under the organic law of the converted entity and is subject to that law and other law as it applies
5 to the converted entity.

6 (b) When a conversion takes effect under this [Article]:

7 (1) all property owned by the converting entity remains vested in the converted
8 entity;

9 (2) all debts, liabilities, and other obligations of the converting entity continue as
10 obligations of the converted entity;

11 (3) an action or proceeding pending by or against the converting entity may be
12 continued as if the conversion had not occurred;

13 (4) except as prohibited by other law, all the rights, privileges, immunities,
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 provided in the plan of conversion, the conversion does
18 not dissolve a converting limited cooperative association for purposes of [Article] 12.

19 (c) A converted entity that is an entity organized under the laws of a jurisdiction other
20 than this state consents to the jurisdiction of the courts of this state to enforce any obligation owed
21 by the converting limited cooperative association if, before the conversion, the converting limited
22 cooperative association was subject to suit in this state on the obligation. A converted entity that
23 is an entity organized under the laws of a jurisdiction other than this state and not authorized to

1 transact business in this state appoints the [Secretary of State] as its agent for service of process
2 for purposes of enforcing an obligation under this subsection. Service on the [Secretary of State]
3 under this subsection is made in the same manner and with the same consequences as under
4 Section 120(c) and (d).

5 **SECTION 1606. MERGER.**

6 (a) One or more limited cooperative associations may merge with one or more other
7 entities pursuant to this [article] and a plan of merger if:

- 8 (1) the governing statute of each of the other entities authorizes the merger;
- 9 (2) the merger is not prohibited by the law of a jurisdiction that enacted any of
10 those governing statutes; and
- 11 (3) each of the other entities complies with its governing statute in effecting the
12 merger.

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

- 14 (1) the name and form of each constituent entity;
- 15 (2) the name and form of the surviving entity and, if the surviving entity is to be
16 created by the merger, a statement to that effect;
- 17 (3) the terms and conditions of the merger, including the manner and basis for
18 converting the interests in each constituent entity into any combination of money, interests in the
19 surviving entity, and other consideration;
- 20 (4) if the surviving entity is to be created by the merger, the surviving entity's
21 organizational documents;
- 22 (5) if the surviving entity is not to be created by the merger, any amendments to
23 be made by the merger to the surviving entity's organizational documents; and

1 (6) if a member of a constituent limited cooperative association will have personal
2 liability with respect to a surviving entity, the identity of the member by descriptive class or other
3 reasonable manner.

4 **SECTION 1607. NOTICE AND ACTION ON PLAN OF MERGER BY**
5 **CONSTITUENT LIMITED COOPERATIVE ASSOCIATION.**

6 (a) For a limited cooperative association to merge with another entity, a plan of merger
7 must be approved by a majority vote of the board of directors or a greater percentage if required
8 by the association's organic rules.

9 (b) The board of directors shall call a members meeting to consider a plan of merger
10 approved by the board, hold the meeting not later than 90 days after approval of the plan by the
11 board, and mail or otherwise transmit or deliver in a record to each member:

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

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

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

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

21 **SECTION 1608. APPROVAL OR ABANDONMENT OF MERGER BY**
22 **MEMBERS.**

23 (a) Subject to subsections (b) and (c), a plan of merger must be approved by:

1 (1) at least two-thirds of the voting power of members present at a members
2 meeting called under Section 1607(b); and

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

6 (b) The organic rules may provide that the percentage of votes under subsection (a)(1) is:

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

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

10 (3) a combination of paragraphs (1) and (2).

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

13 (d) Consent in a record to a plan of merger by a member must be delivered to the limited
14 cooperative association before delivery of articles of merger for filing pursuant to Section 1609 if
15 as a result of the merger the member will have:

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

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

18 (e) Subject to subsection (d) and any contractual rights, after a merger is approved, and at
19 any time before the effective date of the merger, a limited cooperative association that is a party
20 to the merger may approve an amendment to the plan of merger or approve abandonment of the
21 planned merger:

22 (1) as provided in the plan; and

23 (2) except as prohibited by the plan, with the same affirmative vote of the board of

1 directors and of the members as was required to approve the plan.

2 (f) The voting requirements for districts, classes, or voting groups under Section 404
3 apply to approval of a merger under this [article].

4 **SECTION 1609. FILINGS REQUIRED FOR MERGER; EFFECTIVE DATE.**

5 (a) After each constituent entity has approved a merger, articles of merger must be signed
6 on behalf of each constituent entity by an authorized representative.

7 (b) The articles of merger must include:

8 (1) the name and form of each constituent entity and the jurisdiction of its
9 governing statute;

10 (2) the name and form of the surviving entity, the jurisdiction of its governing
11 statute, and, if the surviving entity is created by the merger, a statement to that effect;

12 (3) the date the merger is effective under the governing statute of the surviving
13 entity;

14 (4) if the surviving entity is to be created by the merger and:

15 (A) will be a limited cooperative association, the limited cooperative
16 association's articles of organization; or

17 (B) will be an entity other than a limited cooperative association, the
18 organizational document that creates the entity;

19 (5) if the surviving entity is not created by the merger, any amendments provided
20 for in the plan of merger to the organizational document that created the entity;

21 (6) a statement as to each constituent entity that the merger was approved as
22 required by the entity's governing statute;

23 (7) if the surviving entity is a foreign organization not authorized to

1 transact business in this state, the street address and, if different, mailing address of an office
2 which the [Secretary of State] may use for the purposes of Section 120; and

3 (8) any additional information required by the governing statute of any constituent
4 entity.

5 (c) Each limited cooperative association that is a party to a merger shall deliver the
6 articles of merger to the [Secretary of State] for filing.

7 (d) A merger becomes effective under this [article]:

8 (1) if the surviving entity is a limited cooperative association, upon the later of:

9 (A) compliance with subsection (c); or

10 (B) subject to Section 203(c), as specified in the articles of merger; or

11 (2) if the surviving entity is not a limited cooperative association, as provided by
12 the governing statute of the surviving entity.

13 **SECTION 1610. EFFECT OF MERGER.**

14 (a) When a merger becomes effective:

15 (1) the surviving entity continues or comes into existence;

16 (2) each constituent entity that merges into the surviving entity ceases to exist as a
17 separate entity;

18 (3) all property owned by each constituent entity that ceases to exist vests in the
19 surviving entity;

20 (4) all debts, liabilities, and other obligations of each constituent entity that ceases
21 to exist continue as obligations of the surviving entity;

22 (5) an action or proceeding pending by or against any constituent entity that
23 ceases to exist may be continued as if the merger had not occurred;

1 (6) except as prohibited by law other than this [act], all rights, privileges,
2 immunities, powers, and purposes of each constituent entity that ceases to exist vest in the
3 surviving entity;

4 (7) except as otherwise provided in the plan of merger, the terms and conditions of
5 the plan take effect;

6 (8) except as otherwise provided in the plan of merger, if a merging limited
7 cooperative association ceases to exist, the merger does not dissolve the association for purposes
8 of [Article] 12;

9 (9) if the surviving entity is created by the merger and:

10 (A) is a limited cooperative association, the articles of organization
11 become effective; or

12 (B) is an entity other than a limited cooperative association, the
13 organizational document that creates the entity becomes effective; and

14 (10) if the surviving entity is not created by the merger, any amendments made by
15 the articles of merger for the organizational documents of the surviving entity become effective.

16 (b) A surviving entity that is an entity organized under the laws of a jurisdiction other
17 than this state consents to the jurisdiction of the courts of this state to enforce any obligation owed
18 by the constituent entity if, before the merger, the constituent entity was subject to suit in this
19 state on the obligation. A surviving entity that is an entity organized under the laws of a
20 jurisdiction other than this state and not authorized to transact business in this state appoints the
21 [Secretary of State] as its agent for service of process for purposes of enforcing an obligation
22 under this subsection. Service on the [Secretary of State] under this subsection is made in the
23 same manner and with the same consequences as in Section 120(c) and (d).

1 **SECTION 1611. CONSOLIDATION.**

2 (a) Constituent entities that are limited cooperative associations or foreign cooperatives
3 may agree to call a merger a consolidation under this [article].

4 (b) All provisions governing mergers or using the term merger in this [act] apply equally
5 to mergers that the constituent entities choose to call consolidations under subsection (a).

6 **SECTION 1612. [ARTICLE] NOT EXCLUSIVE.** This [article] does not prohibit a
7 limited cooperative association from being converted or merged under law other than this [act].

8

1 [ARTICLE] 17

2 MISCELLANEOUS PROVISIONS

3 SECTION 1701. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In

4 applying and construing this uniform act, consideration must be given to the need to promote
5 uniformity of the law with respect to its subject matter among states that enact it.

6 SECTION 1702. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL
7 AND NATIONAL COMMERCE ACT. This [act] modifies, limits, or supersedes the federal
8 Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but
9 does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c) or
10 authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15
11 U.S.C. Section 7003(b).

12 SECTION 1703. SAVINGS CLAUSE. This [act] does not affect an action or
13 proceeding commenced, or right accrued, before [the effective date of this [act]].

14 SECTION 1704. EFFECTIVE DATE. This [act] takes effect [effective date].

15 *Legislative Note: If the adopting jurisdiction has an existing act similar to this Act (as of August*
16 *2, 2007, there were six such states), it should consider adding a new section immediately after*
17 *Section 1704 providing for a phasing in of this Act’s application to existing limited cooperative*
18 *associations and might consider repealing the existing statute. The Revised Uniform Limited*
19 *Liability Company Act (2006) (which addresses this same issue because adopting jurisdictions of*
20 *RULLCA have in place existing LLC statutes) provides an illustrative sample for phasing in*
21 *application as follows:*

22
23
24 APPLICATION TO EXISTING RELATIONSHIPS

25
26 (a) Before [all-inclusive date], this [act] governs only:

27
28 (1) a limited liability company formed on or after [the effective date
29 of this Act]; and

30
31 (2) except as otherwise provided in subsection (c), a limited liability
32 company formed before [the effective date of this act] which elects,

1 *in the manner provided in its operating agreement or by law for*
2 *amending the operating agreement, to be subject to this [act].*

3
4 *(b) Except as otherwise provided in subsection (c), on and after*
5 *[all-inclusive date] this [act] governs all limited liability*
6 *companies.*

7
8 *(c) For the purposes applying this [act] to a limited liability*
9 *company formed before [the effective date of this act]:*

10
11 *(1) the company’s articles of organization are deemed to be the*
12 *company’s certificate of organization; and*

13
14 *(2) for the purposes of applying Section 102(1) and subject to*
15 *Section 112(d), language in the company’s articles of organization*
16 *designating the company’s management structure operates as if*
17 *that language were in the operating agreement.*

18
19 *The Legislative Note to RULLCA states, in relevant part:*

20
21 *It is recommended that the “all-inclusive” date should be at least*
22 *one year after the date of enactment but no longer than two years.*

23
24 *Each enacting jurisdiction should consider whether: (i) this Act*
25 *makes material changes to the “default” (or “gap filler”) rules of*
26 *jurisdiction’s predecessor statute; and (ii) if so, whether subsection*
27 *(c) should carry forward any of those rules for pre-existing limited*
28 *liability companies. In this assessment, the focus is on pre-existing*
29 *limited liability companies that have left default rules in place,*
30 *whether advisedly or not. The central question is whether, for such*
31 *limited liability companies, expanding subsection (c) is necessary to*
32 *prevent material changes to the members’ “deal.”*

33
34 *For an example of this type of analysis in the context of another*
35 *business entity act, see the Uniform Limited Partnership Act (2001),*
36 *§ 1206(c).*

37
38 *Of course, the specific cross-references to RULLCA provisions in the sample language would not*
39 *apply to this Act. They are included here for illustrative purposes only.*