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Agricultural Cooperative Formation:

Alabama



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Agricultural Cooperative Formation: Alabama

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Section 2-10-53 – Objects of Association

An association may be organized under this article to engage in any activity in connection with the marketing or selling of the agricultural products of its members or with the harvesting, preserving, drying, processing, canning, packing, storing, handling, shipping, ginning or utilization thereof or in connection with the manufacturing, selling or supplying to its members of machinery, equipment or supplies or in the financing of the above enumerated activities or in any one or more of the activities specified in this section.

Section 2-10-54 – Powers of Association

Each association incorporated under this article shall have the following powers:

- (1) To engage in any activity in connection with the marketing, selling, harvesting, preserving, drying, processing, canning, packing, storing, handling, ginning or utilization of any agricultural products produced or delivered to it by its members;
- (2) To engage in any activity in connection with the manufacturing or marketing of the by-products thereof;
- (3) To engage in any activity in connection with the purchase, hiring or use by its members of supplies, machinery or equipment;
- (4) To engage in the financing of any one or more of the activities specified in this section;
- (5) To borrow money and to make advances to members;



- (6) To act as the agent or representative of any member or members in any of the above-mentioned activities;
- (7) To purchase or otherwise acquire and to hold, own and exercise all rights of ownership in and to sell, transfer or pledge shares of the capital stock or bonds of any corporation or association engaged in any related activity or in the handling or marketing of any of the products handled by the association;
- (8) To establish reserves and to invest the funds thereof in bonds or such other property as may be provided in the bylaws;
- (9) To buy, hold and exercise all privileges of ownership over such real or personal property as may be necessary or convenient for the conducting and operation of any of the business of the association or incidental thereto;
- (10) To establish, secure, own and develop patents, trademarks and copyrights;
- (11) To do each and everything necessary, suitable or proper for the accomplishment of any one or more of the objects enumerated in this section, or conducive to or expedient for the interest or benefit of the association, and to contract accordingly;
- (12) To exercise and possess all powers, rights and privileges necessary or incidental to the purpose for which the association is organized or to the activities in which it is engaged and, in addition, any other rights, powers, and privileges granted by the laws of this state to ordinary corporations, except such as are inconsistent with express provisions of this article and to do any such thing anywhere;
- (13) To have a corporate seal;
- (14) To own, buy and sell all kinds of property; and
- (15) To sue and be sued.

Each association incorporated under this article may render the services mentioned in this section to nonmembers thereof as well as to members; provided, that no such incorporated association shall deal in the agricultural products of nonmembers to an amount greater in value than such as are handled by it for members and that no such incorporated association shall purchase supplies and equipment for or render farm business service to nonmembers in an amount greater in value than such as are purchased for or rendered to members. All business transacted by any cooperative association for or on behalf of the United States or any agency or instrumentality thereof shall be disregarded in determining the value of member or nonmember business transacted by such association.

Section 2-10-56 – Contents of Articles of Incorporation; Signing, Acknowledgement, and Filing



Each association formed under this article shall prepare and file articles of incorporation, setting forth: the name of the association; the purposes for which it was formed; the place where its principal business will be transacted; the term for which it is to exist; the number of directors thereof, which must not be less than five and may be any number in excess thereof; the term of office of such directors; the names and addresses of the persons who are to serve as incorporating directors until their successors are elected and qualified; if organized without capital stock, whether the property rights and interest of each member shall be equal or unequal, and, if unequal, the articles shall set forth the general rule or rules applicable to all members by which the property rights and interests, respectively, of each member may and shall be determined and fixed, and the association shall have the power to admit new members who shall be entitled to share in the property of the association with the old members in accordance with such general rule or rules; and, if organized with capital stock, the amount of such stock and number of shares into which it is divided and the par value thereof. The capital stock may be divided into preferred and common stock. If so divided, the articles of incorporation must contain a statement of the number of shares of stock to which preference is granted and the number of shares of stock to which no preference is granted and the nature and extent of the preference and privileges granted to each.

The articles must be subscribed by the incorporators and acknowledged by one of them before an officer authorized by the law of this state to take and certify acknowledgments of deeds and conveyances and shall be filed in accordance with the provisions of the general corporation law of this state. When so filed, the said articles of incorporation or certified copies thereof shall be received in all the courts of this state and in other places as prima facie evidence of the facts contained therein and of the due incorporation of such association.

Section 2-10-57 – Amendments to Articles of Incorporation

The articles of incorporation or charter of any cooperative or mutual association of farmers organized under the provisions of this article may be altered or amended at any regular meeting of the members or at any special meeting called for that purpose; provided that a quorum shall be present as defined in the bylaws or other governing rules. The amendment must first be approved by two thirds of the directors or other governing body and then adopted by vote of two thirds of the members present and voting at the meeting. Amendments to the articles of incorporation, when so adopted, shall be filed in accordance with the provisions of the general corporation laws of the state.

Section 2-10-92 – How Associations May be Formed; Amendments to Articles of Incorporation (Mutual Farming or Trucking Associations)

Five or more producers of agricultural products, whether in the State of Alabama or not, who may desire that they, their associates and successors



shall come under this article and enjoy its benefits may enter into articles of association and incorporation which shall set forth the name of the organization, the period of its existence, its domicile and the purposes for which it was formed and that said association is to be organized or operated under this article. The articles must be subscribed by the incorporators and acknowledged by one of them before an officer authorized by the law of this state to take and certify acknowledgments of deeds and conveyances and shall be filed in accordance with the provisions of the general corporation law of this state. When so filed the said articles of incorporation or certified copies thereof shall be received in all the courts of the state and other places as prima facie evidence of the facts contained therein and the due incorporation of such association. Such articles of incorporation may thereafter be altered or amended at any regular meeting of the members or stockholders or at any special meeting called for that purpose, if a quorum, as defined in the bylaws, is present. The amendment must first be approved by two thirds of the directors and then adopted by vote of two thirds of the members present and voting at the meeting. Amendments when so adopted shall be filed in accordance with the general corporation laws of the state.

Section 2-10-58 – Provisions of Bylaws

Each association incorporated under this article shall, within 30 days after its incorporation, adopt for its government and management bylaws not inconsistent with the powers granted by this article. A majority vote of the members or stockholders or their written assent is necessary to adopt such bylaws. Each association, under its bylaws, may also provide for any or all of the following matters:

- (1) The time, place and manner of calling and conducting its meetings;
- (2) The number of stockholders or members constituting a quorum;
- (3) The right of members or stockholders to vote by proxy or by mail or by both and the conditions, manner, form and effects of such votes;
- (4) The number of directors constituting a quorum;
- (5) The qualification, compensation, duties and term of office of directors and officers, the time of their election and the mode and manner of giving notice thereof;
- (6) Penalties for violations of the bylaws;
- (7) The amount of entrance, organization and membership fees, if any, the manner and method of collection of the same and the purposes for which they may be used;
- (8) The amount which each member or stockholder shall be required to pay annually or from time to time, if at all, to carry on the business of the association, the charge, if any, to be paid by each member or stockholder for services rendered by the association to him and the time of payment and manner of collection and the marketing contract between the association and its members or stockholders which every member or stockholder may be required to sign;



- (9) The number and qualification of members or stockholders of the association and the conditions precedent to membership or ownership of common stock and the method, time and manner of permitting members to withdraw or the holders of common stock to transfer their stock;
- (10) The manner of assignment and transfer of the interest of members and of the shares of common stock;
- (11) The conditions upon which and the time when membership of any member shall cease;
- (12) The automatic suspension of the rights of a member when he ceases to be eligible to membership in the association and the mode, manner and effect of the expulsion of a member; and
- (13) The manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or stockholder or upon the expulsion of a member or forfeiture of his membership or, at the option of the association, by conclusive appraisal by the board of directors.

In case of the withdrawal or expulsion of a member, the board of directors shall equitably and conclusively appraise his property interests in the association and shall fix the amount thereof in money which shall be paid to him within one year after such expulsion or withdrawal.

Section 2-10-93 – Organization Generally; Adoption of Bylaws (Mutual Farming or Trucking Associations)

A majority of the organizing members named in the articles of incorporation, at a time and place agreed upon in writing by all the said organizers, or when and where all are present, or upon call of a majority of such organizers upon five days' notice thereof, in writing, giving the time, place, and purposes of the meeting, mailed or delivered by hand to all of the other said organizing members, may make permanent organization of such corporation and adopt bylaws for the same, which bylaws may thereafter be amended or repealed by the members of such incorporated association in the manner provided in the bylaws. At such organization meeting, the members of the board of directors and such officers as provided for in this article and in the bylaws shall be elected. Each association incorporated under this article shall, within 30 days after its incorporation, adopt for its government and management bylaws not inconsistent with the powers granted in this article.

Section 2-10-60 – Selection of Directors; Contracts with Association; Vacancies

The affairs of an association shall be managed by a board of not less than five directors, elected by the members or stockholders from their own number. The bylaws may provide that the territory in which the association has members shall be divided into districts and that the directors shall be elected according to such districts. In such case, the bylaws shall specify the number of directors to be elected by each district and the manner and



method of reapportioning the directors and redistricting the territory covered by the association. The bylaws may provide that primary elections shall be held in each district to elect the directors apportioned to such districts and the results of all such primary elections must be ratified by the next regular meeting of the association. The bylaws may provide that one or more directors may be appointed by the Commissioner of Agriculture and Industries, the President of Auburn University or any other public official or commission. The director or directors so appointed need not be members or stockholders of the association, but shall have the same powers and rights as other directors. An association may provide a fair remuneration for the time actually spent by its officers and directors in its service. No director, during the term of his office, shall be a party to a contract for profit with the association differing in any way from the business relations accorded regular members or holders of common stock of the association or to any other kind of contract differing from terms generally current in that district. When a vacancy on the board of directors occurs, other than by expiration of term, the remaining members of the board by a majority vote shall fill the vacancy, unless the bylaws provide for an election of directors by district. In such a case, the board of directors shall immediately call a special meeting of the members or stockholders in that district to fill the vacancy.

Section 2-10-61 – Officers

The directors of each association shall elect from their number a president and one or more vice-presidents. They shall also elect a secretary and a treasurer, who need not be directors, and they may combine the two latter offices and designate the combined office as secretary-treasurer. The treasurer may be a bank or any depository, and such shall not be considered as an officer but as a function of the board of directors. In such case, the secretary shall perform the usual accounting duties of the treasurer, except that the funds shall be deposited only as authorized by the board of directors.

Section 2-10-61 – Removal of Officer or Director

Any member may bring charges against an officer or director by filing them in writing with the secretary of the association, together with a petition signed by 10 percent of the members, requesting the removal of the officer or director in question. The removal shall be voted upon at the next regular or special meeting of the association; and, by a vote of a majority of the members, the association may remove the officer or director and fill the vacancy. The director or officer against whom such charges have been brought shall be informed in writing of the charges previous to the meeting and shall have an opportunity at the meeting to be heard in person or by counsel and to present witnesses, and the person or persons bringing the charges against him shall have the same opportunity. In case the bylaws provide for election of directors by districts with primary elections in each district, then the petition for removal of a director must be signed by 20 percent of the members residing in the district from which he was elected. The board of directors must call a special meeting of the members residing in that district to consider the removal of



the director. By a vote of a majority of the members of that district, the director in question shall be removed from office.

Section 2-10-94 – Board of Directors (Mutual Farming or Trucking Associations)

The affairs of an association incorporated under this article shall be conducted, controlled and managed by a board of directors of such number, not to be less than five, and with such terms of office as may be provided by the bylaws. The said directors shall be elected by the members or stockholders of the association from their own number. When a vacancy on the board of directors occurs other than by expiration of term, the remaining members of the board by a majority vote shall fill the vacancy until the next regular meeting of the members of the association. An association may provide a fair remuneration for the time actually spent by its officers and directors in its service. No director, during his term of office, shall be a party to a contract for profit with the association differing in any way from the business relations accorded regular members or holders of stock of the association.

Section 2-10-95 – Election and Duties of Officers (Mutual Farming or Trucking Associations)

The board of directors shall elect from its number a president and one or more vice-presidents. It shall also elect a secretary and a treasurer who need not be directors, and it may combine the two latter offices and designate the combined office as secretary-treasurer. The duties of said officers shall be those usual to like officers in corporations and such other additional duties as may be designated in the bylaws.

Section 2-10-55 – Who May Become Members or Stockholders

Under the terms and conditions prescribed in its bylaws, an association may admit as members (or issue common stock to) only persons or associations or corporations composed solely of persons engaged in the production of the agricultural products to be handled by or through the association, including the lessees and tenants of land used for the production of such products and any lessors and landlords who receive as rent all or part of the crop raised on the leased premises. Any such persons or associations of persons or corporations may be citizens of or organized under the laws of this state or any other state of the United States and shall handle such agricultural products for members only.

Section 2-10-97 – Membership (Mutual Farming or Trucking Associations)

Under the terms and conditions prescribed in its bylaws, an association may admit as members or issue common stock or certificates of membership only to persons engaged in the production of agricultural products, including the lessees and tenants of land used for the production of such products and lessors and landlords who receive as rent part of the crops raised on the leased premises. If a member of a nonstock association shall be other than a



natural person, such member may be represented by an individual, associate, officer, manager or member thereof duly authorized in writing. All membership shall be personal to the member and equal in right and shall not be transferable, assignable, vendable, inheritable, devisable or seizable, and each member shall have one vote only.

Section 2-10-62 – Certificate of Membership; Stock of Association; Member’s Liability for Association’s Debts

When a member of an association established without capital stock has paid his membership fee in full, he shall receive a certificate of membership. No association shall issue stock to a member until it has been fully paid for. The promissory notes of the members may be accepted by the association as full or partial payment. The association shall hold the stock as security for the payment of the note, but such retention as security shall not affect the member's right to vote. Except for debts lawfully contracted between him and the association, no member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on his membership fee or his subscription to the capital stock, including any unpaid balance or any promissory notes given in payment thereof. No stockholder of a cooperative association shall own more than 20 percent of the common stock of the association, and an association in its bylaws may limit the amount of common stock which one member may own to any amount less than 20 percent of the common stock. No member or stockholder shall be entitled to more than one vote. Any association organized with stock under this article may issue preferred stock, with or without the right to vote. Such stock may be redeemable or retirable by the association on such terms and conditions as may be provided for by the articles of incorporation and printed on the face of the certificate. The bylaws shall prohibit the transfer of the common stock of the association to persons not engaged in the production of the agricultural products handled by the association, and such restrictions must be printed upon every certificate of stock subject thereto. The association may at any time except, when the debts of the association exceed 50 percent of the assets thereof, buy in or purchase its common stock at book value thereof as conclusively determined by the board of directors and pay for it in cash within one year thereafter.

Section 2-10-98 – Organization with Capital Stock (Mutual Farming or Trucking Associations)

Incorporated associations may be organized under this article with capital stock at the option of the organizers. In that event the association shall be organized by the same method and for the same recording fee as in the case of those associations organized without capital stock, except that the articles of association shall set forth also that the association is organized with capital stock and the amount of capital stock authorized with particulars as to the class or classes thereof and the par value of shares. There shall be no individual liability on the part of shareholders, members, officers or directors for the obligations of the corporation. The articles of association may provide for preferred stock as well as common



stock, but all shares shall have a definite par value, and all shares of the same class shall have the same par value. If so divided, the articles of incorporation must contain a statement of the number of shares of stock to which preference is granted and the number of shares of stock to which no preference is granted and the nature and extent of the preference and privileges granted to each. No member or stockholder shall be entitled to more than one vote irrespective of the number of shares of stock held by such member or stockholder. No stockholder shall hold more than 20 percent of the common stock. Common stock shall be issued only to and held only by producers of agricultural products who make use of the service and facilities of the association or to agricultural associations, organizations, federations or corporations organized under this article or whose purposes and operations are in harmony with the purposes of this article; provided, that the articles of association may limit the ownership of stock to producers of agricultural products. Dividends upon the capital stock shall not be declared or paid in excess of eight percent per annum. If any shareholder shall cease to be eligible to hold his shares or shall die or shall be dissolved, and if his shares are not promptly transferred to some producer or organization eligible to hold the same, the association shall take up such shares at par value or at the option of the association at appraised value, such value to be conclusively fixed by the board of directors of the association, and the association may pay therefor in cash or by certificate of indebtedness to be thereafter paid from the income of the association. If any shareholder shall attempt to transfer his share except as permitted, such shares may, at the option of the association, be taken up as in the case of the death of a shareholder.

Section 2-10-105 – Permit Fee; Taxation (Mutual Farming or Trucking Associations)

Any corporation or association organized under this article shall pay to the state the annual permit fee of \$10.00 now required by law and shall pay all ad valorem taxes on its real and personal property; except, that all cotton and all other agricultural products which have been raised or produced in the State of Alabama, title to which may be held by such corporation or association in its own right or for the use and benefit of its members, and all goods and articles purchased or acquired by such corporation, whether in or out of the state, for its own use or for the use and benefit of its members for strictly agricultural or farm purposes in this state, shall, so long as held by such corporation or association, be exempt from taxation, nor shall such corporation be liable for any other license or privilege fee or tax for the purpose of engaging in or transacting business or otherwise in this state.

