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Agricultural Cooperative Formation:

Delaware



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Section 8502 – Formation of Associations

(a) Cooperative agricultural associations, instituted for the purposes of mutual help, having capital stock, may be formed under the provisions of this chapter by any number of persons, not less than 5, engaged in agriculture.

Section 8507 – General Powers of Association

An association incorporated under this chapter may engage in the buying and selling of agricultural products, taking title to such products or acting as agent for its stockholders, patrons, or any of them; may engage in or perform for its stockholders or patrons services connected with the production, harvesting, preservation, drying, grading, canning, storing, handling, utilization, marketing or sale of agricultural products produced by them; and may engage in or perform for its stockholders or patrons services connected with purchasing or leasing for use by them of supplies, including livestock, machinery, equipment, feed, fertilizer, electricity and seeds, and the hiring of labor, or any 1 or more of the kinds of service specified in this section, for the agricultural or other purposes of the stockholders.

Section 8503 – Articles of Association; Contents; Acknowledgment

(a) The articles of association of an intended association shall be subscribed by 5 or more persons, 3 of whom shall be citizens of this State, and shall set forth:

- (1) The name of the association, which shall include the word “cooperative”;
- (2) The class of services to be performed by the association, which services shall be 1 or more of those enumerated in § 8507 of this title;
- (3) The location of the registered office of the association, which shall be within this State;
- (4) The term for which it is to exist;



- (5) The amount of its capital stock, and the number and par value of shares into which it is divided, the names and post-office addresses of the subscribers, the number of shares subscribed by each, and the amount of capital actually paid into the treasury;
 - (6) The number of its directors for the first year, not less than 5, the names and residences of those who are chosen for directors for the first year, and the name and residence of the treasurer;
 - (7) Any other provisions, not inconsistent with law, which the association sees fit to adopt, governing the regulation and conduct of its affairs.
- (b) The articles of association shall be acknowledged by not less than 5 of the subscribers thereto, before any officer authorized to take acknowledgments and administer oaths and affirmations in this State. The subscribers making the acknowledgment shall also make and subscribe an oath or affirmation before the authorized officer that the statements contained therein are true.

Section 8509 – Adoption of Bylaws

Within 30 days after the recording of the articles of association in the office of the recorder of deeds, as prescribed in § 8504 of this chapter, a call, signed by not less than a majority of the directors, shall be issued for a meeting of the common stockholders. At such meeting, or any adjourned session or sessions thereof, bylaws regulating the conduct and management of the association shall be adopted.

Section 8510 – Provisions of Bylaws

Bylaws shall, within the limits of this chapter, prescribe:

- (1) The time, place and manner of calling and holding meetings. Meetings of stockholders may be held (a) by a meeting at large at such place as may be designated by the bylaws or action of the board of directors, or (b) by a meeting of delegates elected to represent the stockholders by the respective local or district organizations in such manner as may be provided by the bylaws, or (c) by district or local meetings held in the several districts or locals into which the association has divided itself. Meetings in districts or locals shall be of stockholder members of such districts or locals and need not necessarily be held at the same time in each district or local. The bylaws may provide that the board of directors may take a vote of the stockholders on a specific case or resolution by mail signed or unsigned ballot;
- (2) The number of directors; the time and manner of their nomination, election and removal, their powers and duties; the number, not less than a majority, necessary to the exercise of their powers; and the method of fixing their compensation, if any. The board of directors may, by resolution adopted by a majority of the whole board, delegate 2 or more of its number to constitute an executive committee, which, to the extent provided in such resolution, shall have and exercise the authority of the board of directors in the management of the corporation. The bylaws may provide a system for the nomination of directors by a representative body or council, or otherwise, and for their election, either at large or by



districts, by votes cast by stockholders in district or local organizations with the return of the votes to the central office for tabulation;

(3) The officers, their terms of office, the time and manner of their appointment, their powers and duties, and the method of fixing their compensation, if any;

(4) Regulations governing the sale, transfer and redemption of common stock;

(5) Any other provisions deemed proper and necessary to carry out the purposes for which the association was formed, including provisions, if deemed advisable, for the creation of a representative body or council, which, among other powers, may be granted power to hear and determine charges against any member of the board of directors, and power to remove any director where such charges are sustained. The vacancy which may thus be created shall be filled as in other cases. A representative body or council, if created, shall have, in addition to the powers provided by this chapter, such other powers as are provided by the bylaws, which by the bylaws may be made advisory only;

(6) The method or methods by which the bylaws may, from time to time, be adopted, altered, amended or repealed. The authority to make, alter, amend or repeal bylaws may be expressly vested by the bylaws in the board of directors or in a representative body or council, subject to the power of the representative body or council to change or repeal bylaws made by the board of directors, and subject to the power of the stockholders to change or repeal bylaws made by either the directors or the representative body or council. Notice of all amendments proposed by the stockholders, the representative body or council, or the directors shall be given either to the stockholders individually or by publication in such regularly published paper or periodical, if any, as shall be established by the association and distributed to stockholders.

Section 8521 – Directors; Duties; Election; Term; Vacancies

(a) The board of directors of each association shall consist of not less than 5 members. The board shall manage the affairs of the association and shall perform such other duties as are specifically imposed upon the board by this chapter.

(b) The bylaws of the association shall provide a method by which directors shall be nominated and elected, and may provide that the territory in which the association has stockholders shall be divided into districts, and may apportion the directors to be elected to the respective districts on the basis either of the number of stockholders or the quantity of the commodities produced for sale through the association in the respective districts. Meetings for the nomination and election of directors may be held by the stockholders either at the principal office of the corporation, or at district or local meetings of the stockholders held at the usual meeting places of local groups of stockholders that are organized for administrative purposes in the several communities, or by delegates or representatives



chosen for that purpose by the stockholders in meetings assembled in the several local communities, as the bylaws may direct. Directors shall hold office until their successors enter upon the discharge of their duties. Vacancies shall be filled for the unexpired terms by the board of directors at any regular meeting, or at any special meeting called for that purpose.

(c) The board of directors shall be a continuing body, the term of one-third, or as near as may be, of whom shall expire each year, and the bylaws of the association shall so regulate the terms of directors, including the terms of additional directors that may be authorized from time to time, in order to make this principle effective.

Section 8522 – Officers; Appointment; Terms; Vacancies; Bonds

The officers of every association shall include a president, vice-president, secretary and treasurer, who shall be appointed annually by the board of directors. The president and vice-president shall be appointed from among the directors. The secretary and treasurer may be nonstockholders. The office of secretary and treasurer may be combined and one individual appointed thereto. Vacancies in offices shall be filled for the unexpired term by the board of directors in the manner provided for the original appointment of officers. Officers shall hold their offices until their successors are appointed and qualified and have entered upon the discharge of their duties. The board of directors shall require the treasurer, and may require such other officers, agents and employees charged by the association with responsibility for the custody of funds or property, to give bond, with sufficient surety, for the faithful performance of their duties as such. The premium on such bond shall be paid by the association.

Section 8531 – Issue, Redemption, and Transfer of Stock

An association may transact or do business with or for patron stockholders or patrons not stockholders, and may issue and sell its preferred stock to patrons or nonpatrons of the associations, but common stock of the association shall be sold to patrons only. The certificate of common stock shall contain a provision that the association shall have an option to redeem the stock at par value plus declared and unpaid dividends when the owner thereof has for a period of 12 months done no business with the association, and shall contain a further provision that no sale or transfer of stock shall be valid without the written consent of the association, and, if the association withholds its consent to such sale or transfer, then the association shall redeem such stock at par value plus declared and unpaid dividends.

Section 8561 – Exemption from State Taxation

No association organized under this chapter shall be liable for the payment of any state tax upon its right to do business in this State, upon its earnings or income, or any part thereof, upon its capital stock, or upon any scrip, bonds, certificates, or other evidences of indebtedness issued by such corporation, and all stocks, bonds, et cetera, issued by such associations



shall be exempt from all state taxation. Associations organized under this chapter shall not be required to file reports relative to taxes required by law of corporations not exempt from the payment of such taxes.

