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Agricultural Cooperative Formation:

Florida



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Section 618.06 – Purposes of Incorporation

An association may be organized under this chapter for the purpose of engaging in any cooperative activity in connection with the producing, marketing, or selling of agricultural products; or with the growing, harvesting, preserving, drying, processing, canning, packing, grading, storing, warehousing, handling, shipping, or utilizing such products; or the manufacturing or marketing of the byproducts thereof; or in connection with any of the activities mentioned herein, the manufacturing, selling, or supplying of machinery, equipment or supplies; or in the financing of any of the above-enumerated activities; or in performing or furnishing business or educational services, on a cooperative basis for those engaged in agriculture as bona fide producers of agricultural products or in any one or more of the activities specified herein.

Section 618.07 – Powers of Corporations

Except as the same may be limited in its articles of incorporation, each association organized under this chapter shall have the following powers:

- (1) To engage in any activity in connection with the producing, marketing, selling, preserving, growing, harvesting, drying, processing, manufacturing, canning, packing, grading, warehousing, storing, handling, or utilizing of agricultural products or in the manufacturing or marketing of the byproducts thereof; or in any activities in connection with the manufacturing, purchasing, hiring or using supplies, machinery, or equipment; or in the financing of any of the above-enumerated activities, or in performing business or educational services, on a cooperative basis, for those engaged in agriculture as bona fide producers of agricultural products; or in any one or more of the activities specified herein;



- (2) To borrow money from any source without limitation as to amount of corporate indebtedness or liability, with authority to give any kind or form of obligation or security therefor;
- (3) To act as the agent or representative of any person in any of the above-mentioned activities;
- (4) To make loans or advances to members and to their members, to nonmember patrons, and to nonmember patrons of members, with authority to accept therefor any kind, form or type of obligation with or without security; to purchase, endorse, discount, sell, or guarantee the payment of any note, draft, bill of exchange, indenture, bill of sale, mortgage, or other obligation, the proceeds of which have been advanced or used in the first instance for any of the purposes provided for herein; to discount for or purchase from any association organized under the laws of any state, with or without its endorsement, any note, draft, bill of exchange, indenture, bill of sale, mortgage, or other obligation the proceeds of which are advanced or used in the first instance for carrying on any cooperative activity authorized in this chapter and with authority to dispose of same with or without endorsement. An association organized under this chapter and exercising any of the powers provided in this subsection shall not engage in the business of banking;
- (5) To purchase or otherwise acquire, to hold, own, and exercise all rights of ownership in, and to sell, transfer, pledge, or guarantee the payment of dividends or interest on, or the retirement or redemption of shares, of capital stock, bonds, or other obligations of any corporation or association, engaged in any directly or indirectly related activity, or in the producing, picking, hauling, packing, shipping, handling, warehousing, financing, canning, preserving, processing, manufacturing, utilizing, marketing, or selling of any of the products handled by the association, or any byproducts thereof;
- (6) To establish reserves and to invest the funds thereof in bonds, or in such other property as may be provided in the bylaws;
- (7) To buy, hold, and exercise all privileges of ownership over such real or personal property, as may be necessary or convenient for the conduct and operation of any of the business of the association or incidental thereto;
- (8) To sell, convey, and transfer all of the assets of the association; provided, such sale shall be consented to by not less than two-thirds of its members or by the holders of not less than two-thirds of its common stock, which consent shall be given either in writing, or by vote at a special meeting of its members or stockholders called for that purpose;
- (9) To establish, secure, own, and develop patents, trademarks, and copyrights;
- (10) To do each and everything necessary, suitable or proper for the accomplishment of any one of the purposes, or the attainment of any one or more of the objects herein enumerated, or conducive to or expedient for the interest or benefit of the association, and to contract accordingly; and in addition, to exercise and possess all powers, rights, and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged, and any other rights, powers, and privileges granted by the laws of this state to corporations for profit, except such as are inconsistent with the express provisions of this chapter; and to do any such thing anywhere;



(11) No association organized under this chapter, during any fiscal year thereof, shall deal in or handle products, machinery, equipment, supplies, or perform services for and on behalf of nonmembers to an amount greater in value than such as are dealt in, handled, or performed by it for and on behalf of members during the same period.

Section 618.04 – Articles of Incorporation; Fees

Each association organized under this chapter shall prepare and file articles of incorporation setting forth:

- (1) The name of the association, which may or may not include the word “cooperative” or any abbreviation thereof;
- (2) The purpose for which it is formed;
- (3) The place where its principal office within the state will be located;
- (4) Whether the association is to have perpetual existence and, if not, the term of its existence;
- (5) The names and addresses (not less than three), of those who are to serve as directors for the first term or until the election of their successors;
- (6) If organized without capital stock, whether the property rights and interest of each member shall be equal or unequal; if unequal, the general rules applicable to all members by which the property rights and interest, respectively, of each member may and shall be determined and fixed; and provision for the admission of new members, who shall be entitled to share in the property of the association with the old members, in accordance with such general rules. This provision or paragraph of the articles of incorporation shall not be altered, amended or repealed, except by the written consent or vote of three-fourths of the members;
- (7) If organized with capital stock, the amount of such stock and the number of shares into which the capital stock is to be divided, whether all or part of the same shall have a par value, and if so, the par value thereof, whether all or part of the same shall have no par value, and if there is to be more than one class of stock created, a description of the different classes, the number of shares in each class, and the relative rights, interests, and preferences each class shall represent;
- (8)(a) In addition to the foregoing, the articles of incorporation of any association incorporated hereunder may contain any provision consistent with law with respect to management, regulation, government, financing, indebtedness, membership, the establishment of voting districts, and the election of delegates for representative purposes, the issuance, retirement and transfer of its stock, if formed with capital stock or any provisions relative to the way or manner in which it shall operate or with respect to its members, officers, or directors, and any other provisions relating to its affairs.
 - (b) The articles shall be subscribed by the incorporators and acknowledged by one of them, if individuals, or by the president or any vice president of one of them, if corporations, before an officer authorized by law to take and certify acknowledgments of deeds and conveyances, and shall be filed with the Department of State accompanied by a fee of \$52.50 which shall be the only fee required therefor; and thereupon the association shall be and constitute



a body corporate under the provisions of this chapter, and a copy of said articles of incorporation certified by the Department of State shall be received in all the courts of this state and other places, as prima facie evidence of the facts contained therein and of the due incorporation of such association.

Section 618.09 – Bylaws

Each association incorporated under this chapter shall adopt for its government and management, a code of bylaws not inconsistent with the powers granted by this chapter. A majority vote of a quorum of the members or stockholders attending a meeting, of which notice of the proposed bylaws shall have been given, is sufficient to adopt or amend the bylaws. Each association, under its bylaws, may provide for any or all of the following matters:

- (1) The time, place, and manner of calling and conducting its meetings, which meetings and meetings of its directors, may be held either within or without the state.
- (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 both; and the conditions, manner, form, and effects of such votes.
- (4) The number of directors constituting a quorum.
- (5) The qualifications, compensation, and duties and term of office of directors and officers; 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 or her and the time of payment and the manner of collection; and the form of marketing contract between the association and its members or stockholders, which marketing contract shall be binding upon every member or stockholder, unless otherwise agreed upon in writing.
- (9) The number and qualification of members or stockholders of the association and the conditions precedent to membership or ownership of common stock; the method, time, and manner of permitting members to withdraw or the holders of common stock to transfer their stock; the manner of assignment and transfer of the interest of members and of the shares of common stock; the condition upon which and time when membership of any member shall cease; the automatic suspension of the rights of a member when he or she ceases to be eligible to membership in the association; the mode, manner, and effect of the expulsion of a member; whether a member upon withdrawal, death, or expulsion shall have any interest in the property of the association, if organized without capital stock; the manner of determining the value of the property interest or the shares of common stock of retiring or expelled members, which interest or stock may be conclusively appraised by the board of directors of the association and purchased by the association at such value within 1 year after the date of such retirement or expulsion.



Section 618.12 – Directors; Elections

(1) The affairs of the association shall be managed by a board of not less than three directors, to be elected by the members or stockholders, with such qualifications as may be provided for in the articles of incorporation or the bylaws. The bylaws may provide that the territory in which the association has members shall be divided into districts and that the directors shall be nominated according to such district, either directly or by district delegates elected by the members in that district. In such case the bylaws shall specify the number of directors to be nominated by each district, the manner and method of reapportioning the directors and of redistricting the territory covered by the association. The bylaws may provide that primary elections shall be held in each district to nominate the directors apportioned to such districts and the result of all such primary elections may be ratified by the next regular meeting of the association or may be considered final as to the association. The bylaws may provide that one or more directors may be nominated by the Department of Agriculture and Consumer Services or by the other directors nominated by the members or their delegates. Such directors shall represent primarily the interest of the general public in such associations. Such directors shall not number more than one-third of the entire number of directors.

(2) An association may provide a fair remuneration for the time actually spent by its officers and directors in the service and for the service of the members of its executive committee. No director, during the term of her or 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 others, or differing from terms generally current in that district.

(3) The bylaws may provide for an executive committee to be elected by the board of directors from within or without the membership of the board and may allot to such committee all the functions and powers of the board of directors, subject to the general direction and control of the board.

(4) 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 the nomination of directors by districts. In such case the board of directors shall call a special meeting of the members or stockholders in the respective district to nominate a person qualified to fill the vacancy.

Section 618.13 – Officers; Elections

The directors shall elect from their number a president and one or more vice presidents. They shall also elect a secretary, a treasurer, and such other officers as may be provided for in the bylaws, none of whom need be directors or members of the association. The office of secretary and treasurer may be combined into one office designated as secretary-



treasurer, or both functions and titles may be united in one person. The treasurer may be a bank or any depository, and as such, shall not be considered as an officer, but as a function of the board of directors, and in such case the secretary shall perform the usual accounting duties of the treasurer excepting that the funds shall be deposited only as and where authorized by the board of directors.

Section 618.10 – Membership of Corporation

- (1) Under the terms and conditions prescribed in the bylaws adopted by it, an association may admit as members, or issue common stock only to persons engaged in the production of agricultural products and to associations as defined in this chapter.
- (2) An association organized hereunder may become a member or stockholder of any other association or corporation.

Section 618.15 – Capital Stock and Membership

- (1) When a member of an association organized without capital stock has paid his or her membership fee in full the member shall receive a certificate of membership. An association may issue its shares of stock having no par value from time to time for such consideration as may be fixed by the board of directors. No association shall issue stock until it has been fully paid for. Promissory notes may be accepted by the association as full or partial payment for such stock. The association shall hold the stock as security for the payment of the note; but such retention as security shall not affect the right of any stockholder to vote unless such notes are past due.
- (2) No member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on his or her membership fee or subscription to capital stock, including any unpaid balance on any promissory notes given in payment thereof.
- (3) No stockholder of an association organized under this chapter, except an association organized under this chapter or an association as defined in this chapter, shall own more than one-third of the outstanding common stock of the association; and an association in its bylaws may limit the amount of common stock which one member may own to an amount less than one-third of the outstanding common stock. The association shall limit its dividends on stock both common and preferred, to any amount not greater than 8 percent per annum on the par value thereof, or if such capital stock is without par value, then upon the actual cash value of the consideration received by the association therefor. The association by the vote of its directors, may establish and accumulate reserves out of earnings, including a permanent surplus fund as an addition to capital. Net income in excess of additions to reserves and surpluses so established shall be distributed to the members of the association on the basis of patronage. Any distribution of



reserves and surpluses at any time shall be made to members at the time such distribution is ordered on the basis of patronage.

(4) Any receipts or dividends from subsidiary corporations or from stock or other securities owned by the association shall be included in the ordinary receipts of the association.

(5) No member in any association without capital stock shall be entitled to more than one vote; but the bylaws may provide that such members or the holders of common stock in an association with capital stock, may vote upon any or all questions on a patronage basis.

(6) Preferred stock may be sold to any person, member or nonmember, and may be redeemable or retirable by the association on such terms and conditions as may be provided for in the articles of incorporation, and printed on the stock certificates. The bylaws, except as otherwise provided for in this chapter, shall prohibit the transfer of the common stock of the association to persons not engaged in the production of agricultural products and such restrictions shall be printed upon every certificate of stock subject thereto.

