



# The National Agricultural Law Center

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Agricultural Cooperative Formation:

*Kansas*



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# A National Agricultural Law Center Research Publication

## Agricultural Cooperative Formation: Kansas

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## [Kan. Stat. Ann. §§ 17-1601 to 17-1643](#)

### **Section 17-1604 – Purposes of Association**

An association may be organized to engage in any activity in connection with the marketing or selling of the agricultural products of the association's members; harvesting, threshing, milling, preserving, drying, processing, canning, packing, storing, handling, shipping, or utilization of the agricultural products; manufacturing or marketing of the agricultural by-products; manufacturing, selling, or supplying to the association's members and other patrons of services, products, machinery, equipment or supplies; agricultural education, research, legislation and economic and social conditions; improvement of livestock breeds by means of artificial breeding or otherwise; financing of the above-enumerated activities; or in any one or more of the activities specified above.

Nothing in this act shall authorize such association to engage in the banking business. Corporations organized under this act primarily for the purposes stated above, unless prohibited from so doing by their articles of incorporation, also may deal in the products of nonmembers; manufacture, sell or supply to nonmembers services, products, machinery, equipment or supplies, whether or not supplied to members; and otherwise engage in business with nonmembers. Such associations shall not market, handle, process, store, or deal in the products of nonmembers; manufacture, sell or supply to nonmembers services, products, machinery, equipment or supplies, whether or not supplied to members; and otherwise engage in business with nonmembers; or handle supplies for nonmembers, to an amount greater in value than such as are handled by the association for members.

### **Section 17-1605 – Powers of Association**

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



- (a) To engage in any activity in connection with the marketing, selling, harvesting, threshing, milling, preserving, drying, processing, canning, packing, storing, handling or utilization of any agricultural products produced or delivered to the association by the association's members; manufacturing or marketing of the agricultural by-products, or in connection with the purchase, hiring, or use by the association's members or other patrons of supplies, machinery, or equipment; agricultural education, research, legislation and economic and social conditions; improvement of livestock breeds by means of artificial breeding or otherwise; or financing of any such activities; or in any one or more of the activities specified in this section.
- (b) To function as a general farm organization and to levy and collect dues from the association's members.
- (c) To borrow money without limitation as to amount of corporate indebtedness or liability; and to make advances to members.
- (d) To act as the agent or representative of any member or members in any of the above-stated activities.
- (e) To purchase or otherwise acquire; and to hold, own, and exercise all rights of ownership in, and to sell, transfer or pledge or guarantee the payment of dividends or interest on, or the retirement or redemption of shares of the capital stock or bonds.
- (f) To become a member, of any corporation or association engaged in any lawful activity.
- (g) To establish reserves and to invest the funds thereof in physical facilities, stock of subsidiary corporations or bonds or in such other property as may be provided in the bylaws.
- (h) To buy, hold, and exercise all privileges of ownership over such real and personal property as may be necessary or convenient for the conduct and operation of any of the business of the association or incidental thereto.
- (i) 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 subjects herein enumerated; or conducive to or expedient for the interest or benefit of the association; and to contract accordingly. The association may exercise and possess all powers, rights, and privileges granted by the laws of this state to ordinary corporations, except such as are inconsistent with the express provisions of this act.

### Section 17-1607 – Articles of Incorporation

- (a) Each association formed under this act must prepare and file the articles of incorporation, setting forth:
  - (1) The name of the association.
  - (2) The purposes for which it is formed.
  - (3) The term for which it is to exist, if the term is not to be perpetual.
  - (4) The number of directors, which shall be five or more, and the term of office of such directors.
  - (5) If organized without capital stock, the application 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. 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. This provision of the application for charter shall not be altered, amended, or repealed except by the written consent or the vote of 3/4 of the members.

(6) If organized with capital stock, the amount of such stock and the number of shares into which it is divided and the par value thereof.

(7) The address and county of its registered office in the state and the name, address, other than a post office box, and county of its resident agent in the state.

(b) The capital stock may be divided into preferred and common stock. If so divided, the application for charter 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 application for charter must be subscribed by the incorporators and shall be filed in accordance with the provisions of the general corporation law of this state.

### Section 17-1609 – Bylaws

Each association incorporated under this act must, within 30 days after its incorporation, adopt for its government and management a code of bylaws, not inconsistent with the powers granted by this act. Each association under its bylaws may also provide for any or all of the following matters:

(a) The time, place and manner of calling and conducting the association meetings. The bylaws may provide that the association may have an office or offices outside of this state and may hold the association's stockholders' and directors' meetings outside of this state.

(b) The number or voting power of stockholders or members constituting a quorum.

(c) The right of members or stockholders to vote by proxy or by mail or by both, and the conditions, manner, form and effect of such votes.

(d) The number of directors constituting a quorum.

(e) 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.

(f) Penalties for violations of the bylaws.

(g) The amount of entrance, organization and membership fees, if any; the manner and method of collection of the same and purposes for which they may be used.

(h) 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 such member or stockholder and the time of payment and the manner of collection; and the marketing contract between the association and the association's members or stockholders which every member or stockholder may be required to sign.



- (i) The number and qualifications 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 conditions upon which and time when membership of any member shall cease. The automatic suspension of the rights of a member when such member ceases to be eligible to membership in the association, and the mode, manner and effect of expulsion of a member; the manner of determining the value of a member's interest and provisions for its purchase by the association upon the death of a member, or forfeiture of such member's membership or at the option of the association, by conclusive appraisal by the board of directors.
- (j) The amount of annual dividends which may be paid on the common or preferred stock, which shall in no case exceed the greater of 8% or the contract interest rate set forth in subsection (a) of K.S.A. 16-207, and amendments thereto, at the time of issuance, and the manner in which the remainder of the association's profits shall be prorated in the form of patronage allocations to the association's several stockholders or members upon such member's or stockholder's purchases from, or sales to, the association or upon both such purchases and sales.

### **Section 17-1611 – Board of Directors; Election from Districts; Delegates to Meetings; Compensation of Officers and Directors; Executive Committee; Vacancy in Board of Directors**

- (a) The affairs of the association shall be managed by a board of not less than five directors, elected by the members or voting stockholders from such association's own numbers.
- (b) 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, either directly or by district delegates elected by the members in that district. In such a case the bylaws shall specify the number of directors to be elected by each district, the manner and method of reapportioning the directors and of redistricting the territory covered by the association.
- (c) The bylaws may provide that primary elections shall be held in each district to elect the directors apportioned to such districts and the result of all such primary elections must be ratified by the next regular meeting of the association.
- (d) The bylaws may take away the right to vote by proxy or by mail, and may provide for the election of delegates to the annual meeting. In all cases where the annual meeting is a delegate meeting a majority of the delegates elected shall constitute a quorum. The bylaws may provide for delegates to district meetings and define their powers. An association may provide for a fair remuneration for the time actually spent by its officers and directors in its service. No director during the term of such director's 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.



(e) The bylaws may provide for an executive committee 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.

(f) 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 17-1612 – Officers; Requirements; Elections**

(a) The directors shall elect from their number a president or chairperson. The directors shall also elect one or more vice-presidents or vice-chairpersons, one of whom shall be a director. The directors shall also elect a secretary and a treasurer, who need not be directors, and the directors may combine the two latter offices and designate the combined office as secretary-treasurer. 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. 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.

(b) Notwithstanding the authority of members or voting stockholders to petition for removal of any officer or director pursuant to K.S.A. 17-1614, and amendments thereto, any officer elected pursuant to subsection (a) may be removed from such office by a vote of the board of directors. The board may elect a replacement for such officer who has been removed. Nothing in this subsection shall be construed as removing from the board of directors any such officer removed from such office pursuant to the provisions of this subsection.

### **Section 17-1606 – Members or Stockholders**

(a) Under the terms and conditions in the association's bylaws, an association may admit as members, or issue voting common stock only to persons engaged in the production of agricultural products including the lessees and tenants of lands used for the production of such products and any lessors and landlords who receive as rent part of the crop raised on the leased premises, and may admit as a participating nonmember, participant or associate member, without power to vote, any person regardless of occupation.

(b) If a stockholder or member of a nonstock association be other than a natural person, such stockholder or member may be represented by an individual, associate, officer, trustee or member thereof, duly authorized in writing.

(c) Any agricultural cooperative association or farm organization, whether organized under the laws of this state or any other state, may become a member or stockholder of any association or associations organized under this act.

### **Section 17-1613 – Certificate of Membership; Stock and Stockholders**





- (a) When a member of an association established without capital stock has paid such member's membership fee in full, such member shall receive a certificate of membership. No association shall issue stock to a member until such stock has been fully paid for; 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 the member and the association, no member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on such member's membership fee or such member's subscription to the capital stock. No stockholder of a cooperative association, except another cooperative association shall own more than 20% of the common stock of the association. An association in its bylaws may limit the amount of common stock which one member may own to any amount less than 20% of the common stock.
- (b) The articles of incorporation or the bylaws may provide that no member or stockholder shall be entitled to more than one vote and may also provide for voting based on patronage or patronage equity or both. In the event voting is based on patronage or patronage equity or both, no member shall have more than 5% of the total vote unless the member is another cooperative association. If voting based on patronage or patronage equity, or both, is used, the provisions of this act referring to a majority or similar percentage vote by members, shareholders or shares shall refer to such majority or other proportion of the voting power of the members, stockholders or shares. Any association organized with stock, under this act, may issue preferred stock with or without the right to vote, or with such restrictions on its voting power as the articles of incorporation may prescribe; such stock may be redeemed or retired by the association upon such terms and conditions as may be provided for in the articles of incorporation, and printed on the certificate.
- (c) The bylaws shall prohibit the transfer of the common stock of the association to persons not eligible to be a member of the association and such restrictions must be printed upon every certificate of stock subject thereto.
- (d) The association may at any time buy in or purchase its common stock at par or book value as conclusively determined by the board of directors.

