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Agricultural Cooperative Formation:

Maryland



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Md. Code, Corps. & Ass'ns §§ 5-501 to 5-532

Section 5-502 – Permissible Purposes

A cooperative may be incorporated for any combination of the following purposes:

- (1) Collectively to produce, process, prepare for market, handle, store, and market the products of persons engaged in the production of agricultural or fishery products;
- (2) To act as a selling or buying agent for its members; and
- (3) To purchase or otherwise acquire goods or services for its members.

Section 5-504 – General Powers

A cooperative has the power to:

- (1) Engage in or finance any activity in connection with:
 - (i) Producing, marketing, selling, preserving, drying, catching, taking, harvesting, cultivating, propagating, processing, canning, packing, handling, storing, purchasing, or using any agricultural or fishery products of its members or nonmember patrons or goods incidentally and customarily purchased or marketed in conjunction with these products;
 - (ii) Manufacturing or marketing the by-products of these products; or
 - (iii) The purchase, hire, or use by its members or nonmember patrons of supplies, machinery, equipment, or services;
- (2) Transport the products of its members or nonmember patrons, even if in competition with licensed common carriers;
- (3) Borrow money, give its notes, bonds, or other obligations for the debt, and secure payment of the debt;
- (4) Make advances to its members or nonmember patrons on their products held by the cooperative;
- (5) Act as an agent for or representative of any member or nonmember patron in any activity listed in items (1) through (4) of this section;



- (6) Deposit or invest surplus funds in:
 - (i) Direct and indirect obligations of the United States, any other government, state, territory, government district, and municipality, and any instrumentality of them;
 - (ii) Any Maryland banking institution, or any national bank located in a state in which the cooperative has members; and
 - (iii) Shares or certificates of deposit of any insured savings and loan association permitted to do business in the State;
- (7) Buy or otherwise acquire, hold, own, and exercise all rights of ownership in and sell, transfer, or pledge shares of the capital stock or bonds of any cooperative or any corporation or association engaged in any related activity, including the financing of the activities of cooperatives;
- (8) Establish and accumulate reserves and surplus to capital and any other funds authorized by its charter or bylaws;
- (9) Buy, hold, and exercise every privilege of ownership over any real or personal property necessary or convenient for or incidental to the conduct and operation of the business of the cooperative;
- (10) Sue, be sued, complain, and defend in all courts;
- (11) Issue stock of any class authorized by its charter;
- (12) Issue certificates of indebtedness;
- (13) Provide by contract with its members or nonmember patrons that any money due from the cooperative to them may be retained as necessary:
 - (i) To pay dividends on preferred stock or interest on certificates of indebtedness; and
 - (ii) To be used to retire the stock or certificates of indebtedness;
- (14) Issue to each nonmember patron a certificate or other evidence of his equity in any fund, capital investment, or other assets of the cooperative, which certificate or other evidence of equity may be transferred only to the cooperative or to another purchaser approved by the board of directors, on the terms and conditions provided in its bylaws and printed on the certificate or other evidence of equity;
- (15) Do anything necessary, suitable, or proper to accomplish the purposes mentioned in this section and exercise each power, right, and privilege necessary or incidental to the purposes for which the cooperative is organized or to the activities in which it is engaged; and
- (16) Exercise any other right, power, and privilege granted by the laws of the State to corporations in general, if not inconsistent with the provisions of this subtitle.

Section 5-505 – Contents of Articles of Incorporation

Contents

- (a) The incorporators of a cooperative shall sign, acknowledge, and file with the Department, articles of incorporation. The articles of incorporation shall include:
 - (1) The name of the cooperative;
 - (2) The name, address, and state of residence of each incorporator;
 - (3) A statement of the purposes of the cooperative;
 - (4) The municipal area of its principal office in the State; and



(5) The name and address of its resident agent in the State.

Requirements for organization with capital stock

(b)(1) If the cooperative is organized with capital stock, the articles of incorporation shall state:

- (i) The number of shares of stock;
- (ii) The par value of each share of stock; and
- (iii) The aggregate par value of all shares of stock.

(2) A cooperative may not issue stock without par value.

Property rights

(c) If the cooperative is organized without capital stock, the articles of incorporation shall state whether the property rights of its members are equal or unequal and, if unequal, the rule by which the property rights of members, including members admitted after the original organization, are to be determined.

Section 5-511 – Adoption of Bylaws

Adoption

(a) Within 30 days after the Department accepts for record the articles of incorporation of a cooperative or the articles of amendment and restatement of a corporation converting into a cooperative, the cooperative shall adopt bylaws not inconsistent with law or its charter for the regulation and management of its affairs.

Voting

(b) The bylaws of a cooperative may be adopted, altered, amended, or repealed only by the affirmative vote of two thirds of the members voting in person or by mail.

Original or certified copy

(c) The original or a certified copy of the bylaws and all amendments shall be kept at the principal office of the cooperative.

Section 5-512 – Number and Qualifications of Directors

Management

(a) The business and affairs of a cooperative shall be managed under the direction of a board of directors.

Qualifications

(b) Every cooperative shall have at least five directors, at least two of whom are residents of the State and each of whom is a member of the cooperative or of a member cooperative.

Section 5-517 – Officers; Required and Permitted

Required officers

(a) Each cooperative shall have the following officers:

- (1) A president;
- (2) A vice president;
- (3) A secretary; and
- (4) A treasurer.



Additional officers

(b) In addition to the required officers, a cooperative may have any other officer provided for in the bylaws.

Election of president and vice president

(c) The president and vice president shall be elected from among the directors.

Section 5-503 – Persons Who May Organize Cooperative

Who may organize

(a) A cooperative may be organized by:

(1) Five or more adult individuals acting as incorporators, at least two of whom are residents of the State and each of whom is engaged in:

- (i) The production of agricultural products as a farmer, planter, rancher, dairyman, bee keeper, or nut or fruit grower; or
- (ii) The catching, taking, harvesting, cultivating, farming, propagating, processing, marketing, or distributing of fishery products, including fish, shellfish, crustacea, seaweed, and other aquatic forms of animal and vegetable life or their products or by-products; or

(2) Two or more cooperatives acting as incorporators.

Capital stock

(b) The cooperative may be organized with or without capital stock for any of the purposes enumerated in this subtitle.

Section 5-508 – Power Over Stock and Membership

Powers

(a) A cooperative may:

- (1) Limit the sale of its common stock or membership to persons designated or described in the bylaws;
- (2) Provide that a stockholder or member who ceases to belong to the class of persons designated or described in the bylaws loses his right to vote;
- (3) Limit the number of shares of stock which a person may hold; and
- (4) Reserve to the board of directors:
 - (i) The option to purchase for the cooperative the stock offered by any stockholder; and
 - (ii) The right to redeem the stock of any stockholder.

Option to purchase

(b) If a cooperative exercises an option to purchase or a right to redeem, it shall pay for the stock the greater of its book value or its par value.

Restrictions

(c) A restriction on the ownership, transfer, or voting of stock authorized by this section is not valid unless the restriction is:

- (1) Set forth in the charter; and
- (2) Printed on any stock subscription document and the stock certificate.



Section 5-509 – Issuance of Stock Certificates

A stock certificate may not be issued to any subscriber until the stock is full paid. In a cooperative organized without capital stock, a certificate of membership may not be issued to any person until the membership fee is paid in full.

