



# The National Agricultural Law Center

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Agricultural Cooperative Formation:

*Maine*



This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

# A National Agricultural Law Center Research Publication

## Agricultural Cooperative Formation: Maine

### Fast Find:

- 1) Purpose: [§ 1822](#)
- 2) Power: [§ 1828](#)
- 3) Articles of Incorporation: [§ 1823](#)
- 4) Bylaws: [§ 1826](#)
- 5) Directors and Officers: [§ 1871 & § 1873](#)
- 6) Membership: [§ 1911](#)
- 7) Capitalization: [§ 1912](#)
- 8) Taxation: [§ 1779](#)

## [Me. Stat. tit. 13, §§ 1771 to 1956](#)

### Section § 1822 – Purposes

Such association may be organized for the purpose of engaging in any cooperative activity for producers of agricultural products in connection with:

- 1. Producing, selling, etc.** Producing, assembling, marketing, buying or selling agricultural products, or harvesting, preserving, drying, processing, manufacturing, blending, canning, packing, ginning, grading, storing, warehousing, handling, shipping or utilizing such products, or manufacturing or marketing the by-products thereof;
- 2. Equipment, feed, fertilizer, etc.** Manufacturing, buying for or supplying to its members and other patrons, machinery, equipment, feed, fertilizer, fuel, seeds and other agricultural and household supplies;
- 3. Business or educational services.** Performing or furnishing business or educational services, on a cooperative basis, for or to its members and other patrons;  
or
- 4. Financing.** Financing any of the above enumerated activities for its members, subject to the limitations of Title 9-B, section 466.

### Section § 1828 – Powers

- 1. Capacity to act.** An association formed under this subchapter, or an association which might be formed under this subchapter and which existed at the time this Act took effect, shall have the capacity to act possessed by natural persons, but such association shall have authority to perform only such acts as are necessary or proper to accomplish the purposes as set forth in its articles and which are not repugnant to law.
- 2. Authority.** Without limiting or enlarging the grant of authority contained in subsection 1, it is specifically provided that every such association shall have authority:



- A. To act as agent, broker or attorney in fact for its members and other patrons, and for any subsidiary or affiliated association, and otherwise to assist or join with associations engaged in any one or more of the activities authorized by its articles, and to hold title for its members and other patrons and for subsidiary and affiliated associations to property handled or managed by the association on their behalf;
- B. To make contracts, and to exercise by its board or duly authorized officers or agents, all such incidental powers as may be necessary, suitable or proper for the accomplishment of the purposes of the association and not inconsistent with law or its articles, and that may be conducive to or expedient for the interest or benefit of the association;
- C. To make loans or advances to members or producer-patrons against products delivered or to be delivered to the association, or to the members of an association which is itself a member or subsidiary thereof; to purchase, otherwise acquire, indorse, discount or sell any evidence of debt, obligation or security, but it shall not engage in banking;
- D. To establish and accumulate reserves;
- E. To own and hold membership in or shares of the capital stock of other associations and corporations and the bonds or other obligations thereof, engaged in any related activity; or, in producing, warehousing or marketing or purchasing any of the products handled by the association; or, in financing its activities, and while the owner thereof, to exercise all the rights of ownership, including the right to vote thereon;
- F. To acquire, hold, sell, dispose of, pledge or mortgage any property which its purposes may require, subject to any limitation prescribed by law or its articles;
- G. To borrow money and to give its notes, bonds or other obligations therefor and secure the payment thereof by mortgage or pledge;
- H. To deal in products of, and handle machinery, equipment, supplies and perform services for nonmembers to an amount not greater in annual value than such as are dealt in, handled or performed for or on behalf of its members, but the value of the annual purchases made for persons who are neither members nor producers shall not exceed 15% of the value of all its purchases;
- I. To have a corporate seal and to alter the same at pleasure;
- J. To continue as a corporation for the time limited in its articles, and if no time limit is specified, then perpetually;
- K. To sue and be sued in its corporate name;
- L. To conduct business in this State and elsewhere as may be permitted by law; and
- M. To dissolve and settle its affairs.

### Section § 1823 – Articles of Incorporation

The articles of incorporation must set forth:

1. **Name.** The name of the association which may or may not include the word "cooperative";
2. **Purposes.** Its purposes;
3. **Duration.** Its duration;



4. **Location of office.** The mailing address and physical address, if different, of its registered office in this State;
5. **Name and address of incorporators; number of shares.** The name and mailing address and physical address, if different, of the incorporators, and if organized with capital stock, a statement of the number of shares subscribed by each, which may not be less than one, and the class of shares for which each subscribes;
6. **Names and addresses of first directors.** The names and mailing addresses and physical addresses, if different, of the first directors;
7. **With or without capital stock; if with, par value shares.** Whether organized with or without capital stock; and if organized with capital stock the total authorized number of par value shares and the par value of each share, and if any of its shares have no par value, the authorized number of such shares; and if more than one class of stock is authorized, a description of the classes of shares, the number of shares in each class, the relative rights, preferences and restrictions granted to or imposed upon the shares of each class and the dividends to which each class shall be entitled;
8. **If without, rights and interests of members.** If organized without capital stock, whether the property rights and interests of each member are equal or unequal; if unequal, the rule by which such rights and interests shall be determined; and
9. **Other provisions.** The articles may contain any other provisions, consistent with law for regulating the association's business or the conduct of its affairs, the establishment of voting districts, the election of delegates to represent such districts and the members residing therein, for voting by proxy, and issuance, retirement and transfer of memberships and stock.

### Section § 1826 – Bylaws

The members of the association may adopt bylaws not inconsistent with law or the articles, and they may alter and amend the same from time to time. The bylaws must be adopted by a majority of the members voting thereon, or if the association permits its members to vote on the basis of patronage, then by a majority of members and a majority of the patronage voting thereon. The bylaws may provide for:

1. **Meetings; quorum.** The time, place and manner of calling and conducting meetings of the members, and the number of members that shall constitute a quorum;
2. **Manner of voting.** The manner of voting and the condition upon which members may vote at general and special meetings and by mail or by delegates elected by district groups or other associations, and the voting power of votes based on patronage;
3. **Provisions as to directors and officers.** Subject to any provision thereon in the articles and in this subchapter, the number, qualifications, compensation, duties and terms of office of directors and officers; the time of their election and the mode and manner of giving notice thereof;
4. **Meetings of directors and executive committee; quorum.** The time, place and manner for calling and holding meetings of the directors and executive committee, and the number that shall constitute a quorum;



5. **Rules.** Rules consistent with law and the articles for the management of the association, the establishment of voting districts, the making of contracts, the issuance, retirement and transfer of stock, and the relative rights, interests and preferences of members and shareholders; and
6. **Penalties.** Penalties for violation of the bylaws.

### Section § 1871 – Directors

**1. Membership; term.** The business of the association is managed by a board of not less than 3 directors. The directors must be members of the association or officers, general managers, directors or members of a member association, except that the members of the association may elect, pursuant to the bylaws of the association, to allow the election of nonmember directors of the association by the board of directors, as long as the number of nonmember directors does not exceed 25% of the total number of duly elected member directors. A director shall hold office for the term for which the director was named or elected and until the director's successor is elected and qualified.

[PL 2009, c. 5, §1 (AMD).]

**2. Names; successors.** The names of the first directors shall be stated in the articles. Their successors shall be elected by the members as prescribed by the articles or bylaws.

**3. Duties, etc. prescribed by articles or bylaws.** The number, qualifications, terms of office, manner of election, time and place of meeting and the powers and duties of the directors may, subject to this subchapter, be prescribed by the articles or bylaws.

**4. District directors.** The bylaws may provide, if not restricted by the articles, 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 case, the bylaws shall specify or vest in the board of directors authority to determine the number of directors to be elected by each district and the manner and method of apportioning the directors and of districting and 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 thereto and that the result of all such primary elections may be ratified by the next regular meeting of the association or may be considered as a final election.

**5. Executive committee.** The bylaws may provide for an executive committee to be elected by the board of directors from their number and may allot to such committee all the functions and powers of the board, subject to its general direction and control.

### Section § 1873 – Officers

The board shall elect one or more officers as authorized in the bylaws. The bylaws of each cooperative must provide for one or more officers, including the qualifications for and the titles of those officers.

### Section § 1911 – Members



- 1. Producers of agricultural products.** An association may admit as members only bona fide producers of agricultural products, including tenants and landlords receiving a share of the crop, and cooperative associations of such producers. The incorporators named in the articles are thereby made members of the association, and they shall pay for their membership or stock the same amount and in the same manner as may be required in the case of other members.
- 2. Limit of common stock.** The articles may limit the amount of common stock which a member may own.
- 3. Vote; liability.** Under the terms and conditions prescribed in the bylaws, a member shall lose his vote if he ceases to belong to the class eligible to membership under this section, but he shall remain subject to any liability incurred by him while a member of the association.
- 4. Personal liability.** No member shall be personally liable for any debt or liability of the association.
- 5. One vote.** Unless the articles otherwise provide, no member shall have more than one vote.
- 6. Member defined.** In agricultural associations organized under this subchapter the term "member" in associations without capital stock may, by the bylaws, include any agricultural producer, either corporate or individual, with whom the association shall do business, either directly or through a member cooperative association, amounting to at least \$100 during any fiscal year, and may, by the bylaws, include employees.
- 7. Requirements of statute met.** Whenever under this subchapter an association is permitted to take any action, provided such action is authorized by a vote of the members or the vote of a specified proportion of the voting power based on patronage, the requirements of the statute shall be deemed to have been met by an association which has established voting districts and provided for the election of delegates, if such action is authorized by a vote of the delegates representing such members or such voting power.

### Section § 1912 – Certificates; Transfers; Dividends; Preferred Stock

- 1. Certificate for membership or stock.** No certificate for membership or stock shall be issued until fully paid for, but bylaws may provide that a member may vote and hold office prior to payment in full for his membership or stock.
- 2. Dividends.** Dividends in excess of 8% on the actual cash value of the consideration received by the association shall not be paid on common or preferred stock or membership capital, but dividends may be cumulative.
- 3. Net income distributed.** Net income in excess of dividends and additions to reserves shall be distributed on the basis of patronage, and the books of the association shall show the interest of patrons in the reserves. The bylaws may provide that any distribution to a nonmember, eligible for membership, may be credited to such nonmember until the amount thereof equals the value of a membership certificate or a share of the association's common stock. The distribution credited to the account of a nonmember may be transferred to



the reserve fund at the option of the board if, after 6 years, the amount is less than the value of the membership certificate or a share of common stock.

**4. Value of member's interest after withdrawal or termination.** The bylaws may fix a time within which a member shall receive from the association, after he has notified the association of his withdrawal, or after the adoption of a resolution by the board terminating his membership, the value in money of his membership interest in the association as appraised by the board of directors. If the board of directors approves the member's designation of a transferee of his membership interest, the association shall be under no obligation to pay him the value of his interest.

**5. Preferred stock.** An association may issue preferred stock to members and nonmembers. Preferred stock may be redeemed or retired by the association on such terms and conditions as may be provided in the articles and printed on the stock certificate. Preferred stockholders shall not be entitled to vote, but no change in their priority or preference rights shall be effective until the written consent of the holders of 2/3 of the preferred stock has been obtained. Payment for preferred stock may be made in cash, services or property on the basis of the fair value of the stock, services and property as determined by the board.

### Section § 1779 – License Fee

Domestic associations and foreign associations admitted to do business in this State shall pay an annual license fee of \$10, which shall be in lieu of all other corporation and franchise taxes.

