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Agricultural Cooperative Formation:

Michigan



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Section 450.099 – Cooperative Plan; Definition; Allocation of Reserved Earnings; Cooperative Corporations; Use of Term “Cooperative,” “Co-op,” or Variation Thereof

Corporations may engage in any lawful business within this state upon any cooperative plan adopted by the incorporators, or by the shareholders at any annual or special meeting. For the purpose of this act, the term "cooperative plan" shall be deemed to mean a mode of operation whereby the earnings of the corporation are distributed on the basis of, or in proportion to, the value of property bought from or sold to shareholders and/or members or other persons, or labor performed for, or services rendered to, or by the corporation: Provided, That the foregoing definition shall not be construed as prohibiting any such corporation from paying limited dividends to stockholders and/or members upon stock and/or membership investment, or from reserving a certain proportion of earnings for future operations or for future distribution. Earnings so reserved shall be allocated on the books of the corporation or a means provided for such allocation to the stockholders and/or members or other persons entitled to such earnings, before general distribution of earnings shall have been authorized and made. Corporations organized under a cooperative plan and governed by sections 98 to 109, inclusive, of this act are hereinafter in this act called cooperative corporations and they may use the term "cooperative", "co-op", or any variation thereof in their name.

Section 450.101 – Cooperative Corporations; Shareholders’ Powers; Directors, Election, Term, Number; Voting

The shareholders of any cooperative corporation shall have power: to adopt bylaws for the government and regulation of its business management, and



to amend such bylaws; to determine the manner of distributing the earnings of the corporation upon a cooperative plan; to limit and define the powers and duties and the number of directors and officers; to delegate to the directors any particular power or authority which the shareholders themselves possess, excepting the right to elect or dismiss directors and to amend the articles; to fix the time for holding the elections of its directors, which, shall be annual unless a longer term is prescribed in the articles or bylaws: Provided, That in the event directors are elected for a term of more than 1 year, the bylaws shall prescribe the length of term and the number of directors to be elected each year, to determine whether or not voting by proxy shall be allowed, and if so allowed, when and how, to provide the manner in which directors and officers may be removed and their successors elected at any time by vote of the shareholders; to determine whether or not shareholders shall be limited to 1 vote each, regardless of the number of shares held; to determine the number of shareholders attending any meeting, or the number of shares represented at any meeting of shareholders which shall constitute a quorum, which may be less than a majority; to determine the manner in which shareholders may vote by mail, if the articles or bylaws provide for such voting; and to provide a limitation upon the amount of capital stock which may be owned by any 1 shareholder therein; all of which shall be included in the bylaws or in the articles.

Section 450.1202 – Articles of Incorporation

The articles of incorporation shall contain all of the following:

- (a) The name of the corporation.
- (b) The purposes for which the corporation is formed. All of the following apply for purposes of this subdivision:
 - (i) Except as otherwise provided in subparagraph (ii) or (iii), it is a sufficient compliance with this subdivision to state substantially, alone or with specifically enumerated purposes, that the corporation may engage in any activity within the purposes for which corporations may be formed under the business corporation act, and all activities shall by the statement be considered within the purposes of the corporation, subject to expressed limitations.
 - (ii) Any corporation that proposes to conduct educational purposes shall state the purposes and shall comply with all requirements of sections 170 to 177 of 1931 PA 327, MCL 450.170 to 450.177.
 - (iii) A professional corporation shall comply with section 283(2) and (3).
- (c) The aggregate number of shares that the corporation has authority to issue.
- (d) If the shares are, or are to be, divided into classes, or into classes and series, the designation of each class and series, the number of shares in each class and series, and a statement of the relative rights, preferences and limitations of the shares of each class and series, to the extent that the designations, numbers, relative rights, preferences, and limitations have been determined.
- (e) If the shares are to be designated and issued in 1 or more classes or series, a statement of any authority vested in the board to designate and issue shares in 1 or more classes or series, and to determine or change for



any class or series its designation, number of shares, relative rights, preferences and limitations.

(f) Except as otherwise provided in section 611(2)(c), the street address, and the mailing address if different from the street address, of the corporation's initial registered office and the name of the corporation's initial resident agent at that address.

(g) The names and addresses of the incorporators.

(h) The duration of the corporation if other than perpetual.

Section 450.1231 – Adoption, Amendment, or Repeal of Bylaws; Contents of Bylaws

The initial bylaws of a corporation shall be adopted by its incorporators, its shareholders, or its board. The shareholders or the board may amend or repeal the bylaws or adopt new bylaws unless the articles of incorporation or bylaws provide that the power to adopt new bylaws is reserved exclusively to the shareholders or that the bylaws or any particular bylaw shall not be altered or repealed by the board. The bylaws may contain any provision for the regulation and management of the affairs of the corporation not inconsistent with law or the articles of incorporation.

Section 450.102 – Cooperative Corporations; Membership, Regulations

Same; membership. The shareholders of every co-operative corporation may also provide in their articles or by-laws, the necessary qualifications of shareholders or members, together with provisions limiting, prescribing or regulating the transfer of such membership, and the terms and conditions under which, if at all, membership or certificates of stock may be transferred. No sale, transfer or assignment of membership rights or of any stock in any co-operative corporation shall be valid unless made in accordance with its articles or by-laws; nor shall any purchase and sale of any such shareholder's stock or privileges in such corporation made under execution, or in the course of bankruptcy proceedings, or by any legal process or by operation of law, give any person any shareholder's or membership right, title or interest in and to such corporation, unless in accordance with its articles or by-laws.

Section 450.98 – Applicability of Act to Corporations Limiting Dividends or Voting Rights, and Conducting Not More Than 50% of Business with Nonstockholders or Nonmembers; Classification of Corporations Organized under MCL 450.98 to 450.109 as Profit and Nonprofit

(1) Corporations organized to conduct a lawful business which limits the dividends payable upon stock investment in the case of corporations with capital stock and membership investment in the case of membership corporations without capital stock to not in excess of 8% per annum or which limits the voting rights of stockholders or members to 1 vote regardless of the number of shares of stock or membership held, and in any case do not conduct more than 50% of their business or services with nonstockholders or nonmembers, shall be



governed by this act, except as specifically otherwise provided and except for cooperatives organized under chapter 11 of Act No. 162 of the Public Acts of 1982, being sections 450.3100 to 450.3192 of the Michigan Compiled Laws, as to the mode of corporate management, manner of distribution of earnings and profits, their powers, and optional principles of doing business.

(2) Corporations organized under and operated in accordance with sections 98 to 109, which pay limited dividends upon the stock or membership investment or which do not make distribution of earnings to nonstockholders or nonmembers upon the same basis as to stockholders or members shall, for purposes of making reports and payment of privilege fees or other taxes to the state, be classified as profit corporations. Corporations which do not pay dividends or interest upon stock or membership investment and which distribute all earnings to stockholders or members and other persons doing business with the corporation or provide for the allocation of such earnings to stockholders or members and other persons doing business with the corporation for future distribution shall, for the purposes of making reports and payments of privilege fees or other taxes to this state, be classified as nonprofit corporations.

