



# The National Agricultural Law Center

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Agricultural Cooperative Formation:

*New Hampshire*



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# A National Agricultural Law Center Research Publication

## Agricultural Cooperative Formation: New Hampshire

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## [N.H. Rev. Stat. §§ 301:1 to 301:63](#)

### Section 301:2 – Incorporators

Five or more persons, a majority of whom are residents of this state, engaged in the production of agricultural products, may form a nonprofit, cooperative association, with or without capital stock, under the provisions of this chapter.

### Section 301:3 – Powers

Each association incorporated hereunder shall have the following powers:

I. To engage in any activity in connection with the marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling, or utilization of any agricultural products or the manufacturing or marketing of the by-products thereof, any activity in connection with the purchase, hiring or use by its members of supplies, machinery, or equipment, in financing any of the before mentioned activities. No association, however, shall handle agricultural products of non-members to an extent greater in value than the products of its own members which it handles. Nor shall such an association engaged in the purchase, hiring, or use by its members of supplies, machinery, or equipment do such business with nonmembers during any fiscal year in an amount greater in value than it does business with members.

II. To have perpetual succession in its corporate name unless incorporated or formed for a limited term, or dissolved as provided by law.

III. To borrow money without limitation as to amount of incorporate indebtedness or liability.

IV. To make advance payments and advances to members.

V. To act as the agent or representative of any member or members in any of the above mentioned activities.

VI. To purchase or otherwise acquire, to exercise all rights of ownership or control 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 of any corporation or association engaged in any related activity or in the warehousing, handling, or marketing of any of the products handled by the association.

VII. To establish reserves and to invest the funds thereof in bonds or in such other property as may be provided in the bylaws.

VIII. 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 business incidental thereto.

IX. To establish, secure, own, and develop patents, trademarks, trade names, and copyrights.

X. To engage in rural electrification as limited and defined by RSA 301:53.

XI. To do everything necessary, suitable, or proper for the accomplishment of any of the purposes or the attainment of any of the objects herein enumerated, or conducive to or expedient for the interest or benefit of the association, and to contract accordingly; 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, in addition, any other rights, powers, and privileges granted by the laws of this state to corporations organized under the general laws of this state, except such as are inconsistent with the express provisions of this chapter; and to do any such thing anywhere.

### Section 301:4 – Organization Certificate

Before commencing business, the president, treasurer, and a majority of the directors shall prepare and file a certificate of organization, setting forth:

I. The name of the association.

II. The purposes for which it is formed.

III. The place where its principal business will be transacted.

IV. The number, names, and addresses of the directors thereof, and their term of office.

V. The name and residence of the clerk.

VI. If organized without capital stock, the voting privileges of members if otherwise than one vote to each member, whether the property rights and interests of the members are equal, and, if unequal, the general rules applicable to all members by which the property rights and interests, respectively, of each member 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 in accordance with such general rules. This provision or paragraph of the certificate of organization shall not be altered, amended, or replaced except by the written consent or vote representing 3/4 of the members.

VII. If organized with capital stock, the amount of such stock, the number of shares into which it is divided, and whether such stock be with or without nominal or par value; if such stock be with nominal or par value, the par value thereof and if such stock be without nominal or par value, every share of such stock shall be equal to every other such share except as may be



provided in the vote authorizing the issue thereof; the voting privileges of stockholders, if otherwise than one vote to each stockholder, and the consideration for which capital stock is issued in accordance with the provisions of RSA 293-A.

VIII. The capital stock may be divided into preferred and one or more classes of common stock. If so divided, the certificate of organization shall contain a statement of the number of shares of stock to which preference is granted, the number of shares of stock to which no preference is granted, and the nature and definite extent of the preference and privileges granted to each.

IX. The certificate shall be subscribed by the president and a majority of the directors and sworn to by them; and shall, after being approved by the attorney general or assistant attorney general, be filed with the secretary of state. A certified copy shall also be filed with the commissioner of agriculture, markets, and food.

X. When so filed the said certificate of organization, or a certified copy thereof, shall be received in the courts of the state as prima facie evidence of the facts contained therein and of the due incorporation of such association.

### **Section 301:11 – Subject Matter**

Each association may provide in its bylaws for any or all of the following matters:

- I. The time, place and manner of calling and conducting its meetings.
- II. The number of stockholders or members constituting a quorum.
- III. The right of members or stockholders to vote by representation or by mail or by both; and the conditions, manner, form, and effect of such votes.
- IV. The number of directors constituting a quorum.
- V. The qualifications, compensation, duties and term of office of directors and officers; the time of their election and the mode and manner of giving notice thereof.
- VI. Reasonable penalties for violations of the bylaws.
- VII. The amount of entrance, organization and membership fees, if any; the manner of collecting the same; and the purposes for which they may be used.
- VIII. 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 charges, if any, to be paid by each member or stockholder for services rendered by the association to him and the time of payment and manner of collection; and the marketing contract between the association and its members or stockholders, which every member or stockholder may be required to sign.
- IX. 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 conditions upon which and time when a membership shall cease; the automatic suspension of the rights of a member when he ceases to be eligible to membership; the manner and effect of the expulsion of a member; the manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or stockholder, or upon the expulsion of a member or forfeiture of his membership, or, at the option of the association, the purchase at a price fixed by conclusive appraisal by a board of appraisers. But in no case



shall it be provided that the value or price of the stock shall be determined by any board on which the association shall have any greater voice than the member or his representative.

### **Section 301:15 – Directors; Number; Qualification**

The business of the association shall be managed by a board of not less than 5 directors, elected by the members or stockholders from their own number.

### **Section 301:22 – Officers; Election; Powers**

The directors shall elect from their number a president and one or more vice-presidents. They shall also elect a secretary, who shall be the clerk of the corporation, and a treasurer, who need not be directors or members of the association; and they may combine the 2 latter offices and designate the combined office as that of secretary-treasurer, or unite both functions and titles 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, except that the funds shall be deposited only as and where authorized by the board of directors.

### **Section 301:7 – Members; Qualifications**

Under the terms and conditions prescribed in its bylaws, an association may admit as members, or issue common stock to, only cooperative marketing associations or persons engaged in the production of the agricultural products to be handled by or through the association, including the lessees and tenants of land used therefor and any lessors and landlords who receive any part of the agricultural products produced on the leased premises or of the sale price of such products as rent, or persons engaged in the production of agricultural products who purchase or hire from such association supplies, machinery or equipment for use in connection with the production or marketing of agricultural products.

### **Section 301:26 – Stock**

No association shall issue stock to a member until it has been fully paid for. The 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. Until such notes are paid in full, the corresponding stock, to the extent of unpaid balances, shall be carried on the books of the association and upon all financial statements made by the association as "capital stock issued for notes," and the notes shall be carried on such books and statements as "notes given for capital stock."

### **Section 301:50 – Annual Fee**



Each association organized hereunder shall pay an annual fee of \$25 only, in lieu of all franchise, license, or corporation taxes, or taxes or charges upon reserves held by it for members.

