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Agricultural Cooperative Formation:

New Jersey



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Section § 4:13-3 – Purposes of Incorporation

An association may be organized to engage in any co-operative activities for its members, and within the limitations hereinafter in this chapter set forth, for nonmembers in connection with any of the following:

- a. The marketing, selling of, bargaining and contracting for agricultural products and the by-products thereof; or
- b. The production, manufacture, harvesting, preserving, drying, processing, canning, packing, storing, hauling, handling, shipping, ginning or utilization thereof;
- c. The manufacturing, purchasing, contracting for, or hiring, selling or supplying machinery, equipment, services or supplies, including livestock;
- d. The hiring or supplying of labor;
- e. The financing of any one or more of the above enumerated activities; or
- f. Any one or more of the activities specified in this section.

Section § 4:13-16 – General Powers of Association

Every association may:

- a. Have succession, by its corporate name, for the period limited in its certificate of incorporation, and, when no period is limited, perpetually;
- b. Sue and be sued in any court;



- c. Make and use a common seal, and alter it at will;
- d. Hold, purchase and convey such real and personal estate as its purposes require, and all other real estate which has been bona fide conveyed or mortgaged to the association by way of security, or in satisfaction of debts, or purchased at sales upon judgment or decree obtained for debts. The power to hold real and personal estate shall include the power to take it by devise or bequest;
- e. Elect a board of directors;
- f. Make by-laws, not inconsistent with the law, for the management of its property, the regulation of its affairs, and the conduct and management of the association;
- g. Engage in any one or more of the activities enumerated in section 4:13-3 of this Title and specified in the certificate of incorporation;
- h. Make contracts necessary in the conduct of its operations and the transaction of its affairs;
- i. Borrow money necessary in the conduct of its operations and issue notes, bonds and other evidences of indebtedness therefor and give security, by mortgage or otherwise, for the payment thereof; and make advances to members;
- j. Establish reserve funds for contingencies and for working capital and patrons' revolving capital funds, in accordance with the provisions of this chapter, and invest such funds as provided in the by-laws;
- k. Foster membership in the association by advertising or by educational or other lawful means;
- l. Purchase, or otherwise acquire, and hold, own and exercise all rights of ownership in, and sell, transfer or pledge shares of the capital stock or bonds of any corporation or association engaged in a related activity, or in the handling or marketing of any of the products handled by the association;
- m. Become a member of or consolidate or merge with one or more other associations and wind up and dissolve itself, or be wound up and dissolved, in manner mentioned in section 4:13-11 of this Title;
- n. Exercise such incidental powers as may be necessary, or conducive to or expedient for the benefit of the association, in the exercise of any of the powers herein enumerated.

Section § 4:13-4 – Certificate of Incorporation



The certificate of incorporation shall be signed by all the incorporators and shall set forth:

- a. The name of the association, which may include the words "cooperative" and "association";
- b. The objects for which it is formed, which shall be one or more of the objects enumerated in section 4:13-3 of this Title;
- c. The territory in which its operations are to be conducted, the location of its principal office in this State and the name of the agent in charge thereof and upon whom process against the corporation may be served;
- d. The term for which it is to exist;
- e. The names and post-office addresses of the subscribers;
- f. If organized with capital stock, the total authorized capital stock, the number of shares into which the same is divided and the par value of each share; and, if there is more than one class of stock, a description of the different classes, with the terms on which the respective classes are to be created;
- g. (Deleted by amendment.)
- h. Any other provisions not inconsistent with law, which the association may see fit to adopt, governing the regulation and conduct of its affairs.

Section § 4:13-18 – Election of Directors; By-laws; Adoption; Content

At the first meeting of the association the directors shall be elected and, by majority vote of the members or their written assent, bylaws shall be adopted regulating the conduct and management of the association. A copy of the bylaws certified by the president and secretary, shall be filed forthwith in the office of the Secretary of Agriculture. The bylaws shall provide the method for amending the bylaws. The bylaws shall, within the limitations of this chapter, prescribe:

- a. The time, place and manner of calling and conducting its meetings one of which shall be designated as the annual meeting and the number of members or delegates necessary to constitute a quorum for the transaction of business;
- b. The number and qualifications of members and the conditions under which membership shall be granted and terminated; rules governing the issuance, transfer and cancellation of membership certificates and certificates of common and other classes of stock and the manner of ascertaining the interests of members in the assets, if any, of the association; rules governing the exercise of the privileges of members;



rules governing the method, time and manner of the resignation or withdrawal of members; and rules for ascertaining and paying the value of a member's interest upon his death, withdrawal, resignation, expulsion or the forfeiture of his membership;

c. The number of the directors and the time, place and manner of their election and removal, their powers and duties, their number, not less than a majority, necessary to the exercise of their powers, and their compensation, if any, also their qualifications, manner of nominations, district and other eligibility requirements;

d. The officers, their terms of office, the time and manner of their appointment and removal, their powers and duties and the manner in which their compensation, if any, shall be determined;

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

f. 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 patron for services rendered by the association to him and the time of payment and manner of collection;

g. The date of the commencement of its business or fiscal year;

h. The manner in which the dissolution may be effectuated and the division and distribution of the remaining funds.

i. Any other provisions proper and necessary to carry out the purposes for which the association was formed.

Section § 4:13-19 – Board of Directors

The board of directors of an association shall consist of not less than 3 persons and the directors shall be members of the association or individual representatives of corporate members thereof.

The directors shall be chosen annually by the members or delegates and shall hold office for 1 year, except that an association, by so providing in its by-laws, may elect several classes of directors for different terms, classifying them according to their tenure. In such case no class shall be elected for a shorter period than 1 year or a longer period than 3 years and the term of office of at least one class shall expire in each year.

Directors shall hold office until their successors have been elected and qualified and have entered upon the discharge of their duties.



Vacancies shall be filled as provided in the by-laws.

No director, during his term of office, shall be a party to a contract for profit with the association differing from the business relations accorded other members, except as the director may be employed by the association.

The board shall manage the affairs of the association and perform other duties specifically imposed upon it by this chapter except that if provided in the by-laws the board may appoint an executive committee of not less than 3 members from among the board of which the president shall be one to act for the board of directors between meetings.

Section § 4:13-20 – Officers

The officers of an association shall include a president, vice president, secretary and treasurer, who shall be appointed annually by the board of directors. The president and vice president shall be appointed from among the directors. The secretary and treasurer may be nonmembers. The office of secretary and treasurer may be combined, and one individual appointed thereto. Vacancies in such offices shall be filled by the board for the unexpired term.

The officers shall hold their offices until their successors are appointed and qualified and have entered upon the discharge of their duties.

The board shall require the treasurer and may require any other officers, agents and employees, charged by the association with responsibility for the custody of funds or property, to give bond with sufficient surety for the faithful performance of their duties. The premium on such bonds shall be paid by the association.

Section § 4:13-21 – Eligibility to Membership

An association may admit as members, or issue common stock to, any 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 all or any part of such products raised on the leased premises, or any association, however incorporated, whose members or stockholders are so engaged in the production of agricultural products. A member other than a natural person may by due authorization in writing be represented by a natural person or persons.

Section § 4:13-23 – Issuance of Certificates

Every association without capital stock shall issue a certificate of membership to each member. Every association with capital stock shall issue a certificate of common stock to each member. Such certificate shall not be transferable, and no person who may acquire the same by operation of law, or otherwise than as prescribed in this chapter and the certificate of incorporation and



bylaws of the association, shall be entitled to become a member by virtue thereof. Notice of such limitations shall be printed on the face thereof or by a separate certificate firmly attached thereto.

No association shall issue a certificate of membership or certificate of common stock until the membership fee, or stock subscription, has been paid in full. The promissory notes of the members may be accepted by the association as full or partial payment.

Section § 4:13-2.1 – Annula Fee; Exemption from Corporation Business Tax Act and Uniform Security Act

Each agricultural cooperative association organized hereunder with or without capital stock or foreign corporations authorized to transact business under the provisions of 4:13-15 shall pay to the Secretary of Agriculture an annual fee of \$10.00, in lieu of all franchise or corporation taxes which fee shall accompany a statement of eligibility to be incorporated under this act to be filed on or before March 31 annually.

Any such association shall be exempt from the provisions of the Corporation Business Tax Act provided that on or before the first day of the eighteenth month following the date of filing of certificate of incorporation with the Secretary of Agriculture, said association shall have applied for or received a letter of exemption from the Internal Revenue Service of the United States Department of the Treasury and a true copy of such application or letter of exemption is filed with the Secretary of Agriculture. Also any association incorporated hereunder or qualified under section 15 shall be exempt from the Uniform Security Law.

The Secretary of Agriculture shall certify to the Director of the Division of Taxation and the Secretary of State the names of all agricultural cooperative associations on or before September 1 of each year that have complied with the requirements of this section.

