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Agricultural Cooperative Formation:

Tennessee



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Section 43-16-105 – Activities in Which Authorized to Engage

An association may be organized to engage in any activity:

- (1) In connection with the marketing or selling of the agricultural products of its members, or with the harvesting, preserving, drying, processing, canning, packing, grading, storing, handling, shipping or utilization of such products, or the manufacturing or marketing of the by-products of such products;
- (2) In connection with the manufacturing, selling, or supplying to its members of machinery, equipment, or supplies;
- (3) In the financing of the above enumerated activities; or
- (4) In any one (1) or more of the activities specified in this section.

Section 43-16-108 – Powers of Incorporated Association

Each association incorporated under this chapter has the power to:

- (1) Engage in activity in connection with the marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling, or utilization of any agricultural products produced or delivered to it by its members, or the manufacturing, or marketing of the by-products thereof; or any activity in connection with the purchase, hiring, or use by its members of supplies, machinery, or equipment; or in the financing of any such activities; or in any one (1) or more of the activities specified in this section; and the association may also buy, sell and deal in agricultural products of nonmembers to an amount not greater in value than such as are handled by it for its members;
- (2) Borrow money and make advance payments and advances to members;
- (3) Act as the agent or representative of any member or members in any of the above mentioned activities;
- (4) Purchase or otherwise acquire, and hold, own, and exercise all rights or ownership in, and 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 or handling or marketing of any of the products handled by the association;

(5) Establish reserves and invest the funds thereof in bonds or in such other property as may be provided in the bylaws;

(6) 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 business of the association, or incidental thereto;

(7) Establish, secure, own and develop patents, trademarks and copyrights; and

(8) Do each and everything necessary, suitable or proper for the accomplishment of any one (1) of the purposes or the attainment of any one (1) or more of the subjects, enumerated in this section, or conducive to or expedient for the interest or benefit of the association, and contract accordingly; and, in addition, 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 ordinary corporations, except those inconsistent with the express provisions of this chapter, and to do any such thing anywhere.

Section 43-16-110 – Articles of Incorporation; Preparing and Filing; Contents

Each association formed under this chapter must prepare and file articles of incorporation, setting forth:

(1) The name of the association;

(2) The purpose for which it is formed;

(3) The place where its principal business will be transacted;

(4) The duration of the association, if other than perpetual. If the charter of any association organized under this chapter provides for a term of existence, not exceeding fifty (50) years, such charter is deemed to be amended to provide that the duration of the association is perpetual, unless a majority of the members of such association vote to limit the duration of the association to some other period of time in accordance with title 48, chapter 3; provided, that in no event may the members so amend the charter of an association that has been in existence for more than fifty (50) years;

(5) The number of directors of the association, which must be not less than five (5) and may be any number in excess of five (5); the term of office of such directors; and the names and addresses of those who are to serve as incorporating directors for the first term, and/or until the election and qualification of their successors;

(6) If organized without capital stock, whether the property rights and interest of each member shall be equal or unequal; and if unequal, the general rule or rules applicable to all members by which the property rights and interests, respectively, of each member may and 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 with the old members, in accordance with such general rule or rules;



- (7) If organized with capital stock, the amount of stock and the number of shares into which it is divided and the par value thereof; and
- (8) The street address and zip code of the association's initial registered office in this state, the county in which the office is located, and the name of its initial registered agent at that office.

Section 43-16-114 – Code of Bylaws; Provisions

Each association incorporated under this chapter must, within thirty (30) days after its incorporation, adopt for its government and management, a code of bylaws, not inconsistent with the powers granted by this chapter. A majority vote of the members or stockholders, or their written assent, is necessary to adopt such bylaws. Each association, under its bylaws, may provide for any or all of the following matters:

- (1) The number of stockholders or members constituting a quorum;
- (2) The right of members or stockholders to vote by proxy or by mail, or both; and the conditions, manner, form, and effects of such votes;
- (3) The number of directors constituting a quorum;
- (4) The qualifications, compensation and duties and terms of office of directors and officers; time of their election and the mode and manner of giving notice thereof;
- (5) Penalties for violations of the bylaws;
- (6) The amount of entrance, organization, and membership fees, if any; the manner and method of collection of such fees; and the purposes for which they may be used;
- (7) The amount that 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 member or stockholder for services rendered by the association and the time of payment and the 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; and
- (8) 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 the time when membership of any member shall cease; the automatic suspension of the rights of a member when the member ceases to be eligible to membership in the association; and the mode, 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 the member's membership, or, at the option of the association, the purchase at a price fixed by conclusive appraisal by the board of directors. In case of the withdrawal or expulsion of a member, the board of directors shall equitably and conclusively appraise the member's property interests in the association and shall fix the amount thereof in money, which shall be paid to the member within one (1) year after such expulsion or withdrawal.



Section 43-16-116 – Management by Directors; District Directors; Bylaw Provisions as to Selection and Qualifications

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

(b) The bylaws may provide that the territory in which the association has members shall be divided into districts and that the directors shall be elected according to these districts, either directly or by district delegates elected by the members in that district. In such a case, the bylaws shall specify the number of directors to be elected by each district, the manner and method of reapportioning the directors and of redistricting the territory covered by the association. The bylaws may provide that primary elections shall be held in each district to elect the directors apportioned to the districts, and that the result of all such primary elections may be ratified by the next regular meeting of the association or may be considered final as to the association.

(c) The bylaws may provide that one (1) or more directors may be appointed by any public official or commission or by the other directors selected by the members or their delegates. Such directors shall represent primarily the interest of the general public in such associations. The directors so appointed need not be members or stockholders of the association, but shall have the same powers and rights as other directors. Such directors shall not number more than one fifth ($\frac{1}{5}$) of the entire number of directors.

Section 43-16-121 – Officers Elected by Directors; Treasurer

The directors shall elect from their number a president and one (1) or more vice presidents. They shall also elect a secretary and a treasurer, who need not be directors or members of the association; and they may combine the two (2) latter offices and designate the combined office as secretary-treasurer; or unite both functions and titles in one (1) 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. In that case, the secretary shall perform the usual accounting duties of the treasurer, excepting that the funds shall be deposited only as and where authorized by the board of directors.

Section 43-16-109 – Members; Qualifications

(a) Under the terms and conditions prescribed in the bylaws adopted by it, an association may admit as members, or issue common stock to, only 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 for the production of such products and any lessors and landlords who receive as rent all or any part of the crop raised on the leased premises.

(b) If a member of a nonstock association is other than a natural person, that member may be represented by any individual, associate, officer, or manager, or member thereof, duly authorized in writing.



(c) One (1) association organized under this chapter may become a member or stockholder of any other association or associations organized under this chapter.

Section 43-16-111 – Capital Stock; Articles Specifying Division into Preferred and Common Stock

The capital stock may be divided into preferred and common stock. If so divided, the articles of incorporation must contain a statement of the number of shares of stock to which preference is granted and 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.

Section 43-16-145 – Annual Fee in Lieu of Other Taxes; Exception

Each association organized under this chapter shall pay an annual fee of ten dollars (\$10.00) only, in lieu of all franchise, license, corporation or other privilege taxes, or taxes or charges upon reserves held by it for members; provided, that if any association organized under this chapter sells to persons other than its own members any product or merchandise other than unmanufactured tobacco, livestock, poultry products, dairy products or any other farm products, such association shall be liable for any privilege tax with respect to such transactions or method of doing business imposed under the laws of Tennessee, other than franchise and excise taxes and corporation filing fees or charges upon reserves held by it for members.

