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Agricultural Cooperative Formation:

Vermont



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Agricultural Cooperative Formation: Vermont

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Section 993 – Subscribers

Five or more persons, a majority of whom are residents of this State, may form a nonprofit, cooperative association, with or without capital stock, under the provisions of this subchapter.

Section 994 – Powers

Each association incorporated under this subchapter shall have the following powers:

(1) In the case of a marketing cooperative, the power to engage in any activity in connection with the purchasing, marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling, or utilization of any agricultural or handcraft 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, and in financing any of the aforementioned activities. However, a marketing association shall not handle agricultural or handcraft products of nonmembers to an extent greater in value than the products of its own members which it handles. In the case of a consumers' cooperative, the power to engage in any one or more lawful mode or modes of acquiring, producing, building, operating, manufacturing, furnishing, exchanging, or distributing any type of property, commodities, goods, or services for the primary and mutual benefit of the patrons of the association, or their patrons, if any, as ultimate consumers. In the case of a railroad cooperative, to engage in any activity in connection with the organization, acquisition, and operation of a subsidiary transportation business, whether by means of railroad, truck, water carrier, air, or other. Such a corporation formed under this subchapter shall have any other rights, powers, and privileges granted by the laws of this State to



corporations in a like business organized under the general laws of this State.

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

(3) To borrow money without limitations as to amount of corporate indebtedness or liability.

(4) To make advance payments, and advances to members.

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

(6) To 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, marketing, sale, or distribution of any of the products, property, commodities, or goods handled by the association.

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

(8) 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.

(9) To establish, secure, own, and develop patents, trademarks, trade names, and copyrights.

(10) 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 subchapter; and to do any such thing anywhere.

Section 995 – Articles

Each association formed under this subchapter shall 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 names and addresses of the directors thereof who are to serve until the election and qualification of their successors.

(5) The name and residence of the clerk.

(6) When organized without capital stock, whether the property rights and interest of the members are equal, and, if unequal, the general rules applicable to all members by which the property rights and interest, 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 three-fourths of the members.

(7) When organized with capital stock, the amount of such stock, the number of shares into which it is divided, and the par value thereof.

(8) The capital stock may be divided into preferred and one or more classes of common stock. When 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.

(9) The articles of incorporation of any association organized under this subchapter may provide that the members or stockholders thereof shall have the right to vote in person or through another method of communication, including through a telecommunications or electronic medium, but a member or stockholder may not vote by proxy. This provision or paragraph of the articles of association shall not be altered and shall not be subject to amendment.

(10) In addition to the foregoing, the articles of incorporation of any association incorporated hereunder may contain any provision consistent with law with respect to management, regulation, government, financing, indebtedness, membership, the establishment of voting districts and the election of delegates for representative purposes, the issuance, retirement, and transfer of its stock, if formed with capital stock, or any provisions relative to the way or manner in which it shall operate or with respect to its members, officers, or directors and any other provisions relating to its affairs.

(11) The certificate shall be subscribed by the incorporators and shall be sworn to by one or more of them; and shall be filed with the Secretary of State. A certified copy shall also be filed with the Secretary of Agriculture, Food and Markets.

(12) When so filed, the certificate of organization or a certified copy thereof shall be received in the courts of this State as prima facie evidence of the facts contained therein and of the due incorporation of such association.

Section 1000 – Adoption of Bylaws

(a) Within 30 days after its organization, each association shall adopt for its government and management a code of bylaws, not inconsistent with the powers granted hereby. Except as provided in subsection (b) of this section, a majority vote of the members shall be necessary to adopt, alter, amend, or repeal such bylaws.

(b) In the case of any association having district election of delegates and delegate system of voting as permitted by subdivision 995(10) of this title, in which, under its articles of association or bylaws, such delegates have complete voting power on behalf of the membership for every purpose except that of their own election and the election of district directors, following reasonable notice to the members or stockholders in accordance with the bylaws, a majority of the



delegates attending and voting at any meeting of the delegates of the association may adopt, alter, amend, or repeal such bylaws.

Section 1001 – Contents of Bylaws

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

- (1) The time, place, and manner of calling and conducting its meetings.
- (2) The number of stockholders or members constituting a quorum.
- (3) The number of directors constituting a quorum.
- (4) 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.
- (5) Reasonable penalties for violations of the bylaws.
- (6) 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.
- (7) 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.
- (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 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 or her 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 or her representative.
- (9) The basis of voting by the members or stockholders, especially whether votes of all members shall be equal, or in proportion to the land area leased or used by each member for production of the products handled by the association, or in proportion to the quantity of such products delivered by or handled for each member or stockholder, or such other basis as may be determined. Unless otherwise provided, no member or stockholder shall be entitled to more than one vote regardless of the number of shares of common stock owned by him or her.
- (10) In the case of a consumer's or railroad cooperative, the method of distributing among members or stockholders and patrons, both members and nonmembers, the net savings derived from the excess of total income



over operating expenses. Provision may be made for the accumulation of reserve funds out of net savings.

Section 1006 – Directors

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

Section 1013 – Officers

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. The directors may combine the two 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 998 – Members

Under the terms and conditions prescribed in its bylaws, a marketing cooperative may admit as members, or issue common stock to, only cooperative marketing associations legally formed under the laws of this State, or persons engaged in the production of the agricultural or handcraft 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 or handcraft products produced on the leased premises or of the sale price of such product as rent. Under the terms and conditions prescribed in its bylaws, a consumers' cooperative may admit as members any natural persons, associations, incorporated or unincorporated groups organized on a cooperative basis, or any nonprofit groups. Under the terms and conditions prescribed in its bylaws, a railroad cooperative may admit as members, or issue stock to, any nonprofit organizations, any persons, corporations, or associations who are patrons of its services.

Section 1015 – Issue of Stock

An association shall not 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."

