

CHAPTER 497

COOPERATIVE ASSOCIATIONS

[P]

Applicable only to associations originally chartered before July 4, 1935, §499.1

Option to come under chapter 499, §499.43A

Merger or consolidation with other entities; §499.71, 501A.1101 – 501A.1104

Option to come under chapter 501; §501.601

Option to come under chapter 501A; §501A.1104

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497.1 Purposes of cooperative.

Any number of persons, not less than five, may associate themselves as a cooperative association, society, company, or exchange, for the purpose of conducting any agricultural, dairy, ethanol production, mercantile, mining, manufacturing, or mechanical business on the cooperative plan. For the purposes of this chapter, the words “association”, “company”, “corporation”, “exchange”, “society”, or “union”, shall be construed to mean the same.

[SS15, §1641-r1; C24, 27, 31, 35, 39, §8459; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.1]

92 Acts, ch 1099, §7

497.2 Articles of incorporation.

They shall sign and acknowledge written articles which shall contain the name of said association and the names and residences of the persons forming the same. Such articles shall also contain a statement of the purposes of the association, and shall designate the city or village where its principal place of business shall be located. Such articles shall also state the amount of capital stock, the number of shares, and the par value of each.

[SS15, §1641-r2; C24, 27, 31, 35, 39, §8460; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.2]

497.3 Filing — certificate of incorporation.

The original articles of incorporation of associations organized under this chapter shall be filed with the secretary of state, and be by the secretary recorded in a book kept for that purpose; and if such articles comply with the provisions of sections 497.1 and 497.2, the secretary shall issue a certificate of incorporation to the association. No publication of notice of the incorporation of such an association shall be required.

[SS15, §1641-r3; C24, 27, 31, 35, 39, §8461; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.3]

94 Acts, ch 1055, §9

497.4 Fee.

For filing the articles of incorporation of associations organized under this chapter, there shall be paid to the secretary of state ten dollars, and for the filing of an amendment to such articles, five dollars; provided that when the capital stock of such corporation shall be less than five hundred dollars, such fee for filing either the articles of incorporation or amendments thereto shall be one dollar. In all cases there shall be paid a recording fee of fifty cents per page.

[SS15, §1641-r4; C24, 27, 31, 35, 39, §8462; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.4]

94 Acts, ch 1055, §10

497.5 Board of directors.

Every such association shall be managed by a board of not less than five directors, who shall be elected by and from the stockholders at such time and for such term of office as the bylaws may prescribe, and shall hold office for the time for which elected and until their successors are elected and qualify.

[SS15, §1641-r5; C24, 27, 31, 35, 39, §8463; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.5]

497.6 Removal.

A majority of the stockholders shall have the power at any regular or special stockholders' meeting, legally called, to remove any director or officer for cause, and fill the vacancy, and thereupon the director or officer so removed, shall cease to be a director or officer of said corporation.

[SS15, §1641-r5; C24, 27, 31, 35, 39, §8464; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.6]

497.7 Officers.

The officers of every such association shall be a president, one or more vice presidents, a secretary, and a treasurer, who shall be elected annually by the directors, and each of said officers must be a director of the association. The offices of secretary and treasurer may be combined, and when so combined the person filling the office shall be secretary-treasurer.

[SS15, §1641-r5; C24, 27, 31, 35, 39, §8465; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.7]

497.8 Amending articles.

The association may amend its articles of incorporation by a majority vote of its stockholders at any regular stockholders' meeting, or at any special stockholders' meeting called for that purpose, on ten days' notice to all stockholders. Said power to amend shall include the power to increase or diminish the amount of capital stock and the number of shares; provided the amount of the capital stock shall not be diminished below the amount of paid-up capital at the time the amendment is adopted.

[SS15, §1641-r6; C24, 27, 31, 35, 39, §8466; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.8]

497.9 Record of amendments.

Within thirty days after the adoption of an amendment to its articles of incorporation, an association shall cause a copy of the amendment adopted to be recorded in the office of the secretary of state.

[SS15, §1641-r6; C24, 27, 31, 35, 39, §8467; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.9]

94 Acts, ch 1055, §11

497.10 Powers.

An association created under this chapter shall have power to conduct any agricultural, dairy, mercantile, mining, manufacturing, or mechanical business, on the cooperative plan,

and may buy, sell, and deal in the products of any other cooperative company heretofore or hereafter organized under the provisions hereof.

[SS15, §1641-r7; C24, 27, 31, 35, 39, §8468; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.10]

497.11 Ownership of shares and voting power limited.

No stockholder in any such association shall own shares of a greater aggregate par value than five thousand dollars, except as hereinafter provided, nor shall a stockholder be entitled to more than one vote.

[SS15, §1641-r8; C24, 27, 31, 35, 39, §8469; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.11]

497.12 Stockholding.

At any regular meeting, or any regularly called special meeting, at which at least a majority of all of its stockholders shall be present, or represented, an association organized under this chapter, may by a majority vote of the stockholders present or represented, subscribe for shares and invest its reserve fund, not to exceed twenty-five percent of its capital, in the capital stock of any other cooperative association.

[SS15, §1641-r9; C24, 27, 31, 35, 39, §8470; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.12]

497.13 Issue of shares as payment.

Whenever an association created under this chapter shall purchase the business of another association, person, or persons, it may pay for the same in whole or in part by issuing to the selling association or person shares of its capital stock to an amount, which at fair market value as determined by the executive council, would equal the fair market value of the business so purchased as determined by the executive council as in cases of other corporations.

[SS15, §1641-r10; C24, 27, 31, 35, 39, §8471; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.13]

[P] Payment in property other than money, §492.6 et seq.

497.14 May act as trustee.

In case the cash value of such purchased business exceeds one thousand dollars, the directors of the association are authorized to hold the shares in excess of one thousand dollars in trust for the vendor, and dispose of the same to such persons, and within such times, as may be mutually satisfactory to the parties in interest, and to pay the proceeds thereof as currently received to the former owner of said business.

[SS15, §1641-r11; C24, 27, 31, 35, 39, §8472; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.14]

497.15 Paid-up stock — right to vote.

Certificates of stock shall not be issued to any subscriber until fully paid, but the bylaws of the association may allow subscribers to vote as stockholders; provided part of the stock subscribed for has been paid in cash.

[SS15, §1641-r11; C24, 27, 31, 35, 39, §8473; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.15]

497.16 Voting by mail.

At any regularly called general or special meeting of the stockholders, a written vote received by mail from any absent stockholder, and signed by that stockholder, may be read in such meeting, and shall be equivalent to a vote of each of the stockholders so signing, provided the stockholder has been previously notified in writing by the secretary of the exact

motion or resolution upon which such vote is taken, and a copy of same is forwarded with and attached to the vote so mailed by the stockholder.

[SS15, §1641-r12; C24, 27, 31, 35, 39, §8474; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.16]

497.17 Reserve fund.

The board of directors, subject to revision by the association at any general or special meeting, shall each year set aside not less than ten percent of the net profits for a reserve fund, until an amount has accumulated therein equal to fifty percent of the paid-up capital stock.

[SS15, §1641-r13; C24, 27, 31, 35, 39, §8475; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.17]

497.18 Educational fund — dividends.

The board may each year, out of remaining net profits, subject to the approval of the association at any general or special meeting:

1. Provide an educational fund to be used in teaching cooperation, not exceeding five percent of the net profits.

2. Declare and pay a dividend on the stock, not exceeding ten percent.

[SS15, §1641-r13; C24, 27, 31, 35, 39, §8476; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.18]

497.19 Additional dividends.

The remainder of said net profits shall be distributed by uniform dividends upon the amount of purchases of shareholders, and upon the wages and salaries of employees. In producing associations, such as creameries, canneries, elevators, factories, and the like, dividends shall be on raw material delivered instead of on goods purchased. In case the association is both a selling and a producing concern, the dividends may be on both raw material delivered and goods purchased by patrons.

[SS15, §1641-r13; C24, 27, 31, 35, 39, §8477; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.19]

497.20 When dividends distributed.

The profits or net earnings of such associations shall be distributed to those entitled thereto, at such times as the bylaws shall prescribe, which shall be as often as once in twelve months.

[SS15, §1641-r14; C24, 27, 31, 35, 39, §8478; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.20]

497.21 Dissolution.

If such association, for five consecutive years, shall fail to declare a dividend upon the shares of its paid-up capital, five or more stockholders, by petition, setting forth such fact, may apply to the district court of the county wherein is situated its principal place of business in this state, for its dissolution. If, upon hearing, the allegations of the petition are found to be true, the court may adjudge a dissolution of the association.

[SS15, §1641-r14; C24, 27, 31, 35, 39, §8479; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.21]

497.22 Biennial report — penalty.

Section 504.1613 applies to a cooperative association organized under this chapter in the same manner as that section applies to a corporation organized under chapter 504. In addition to the information required to be set forth in the biennial report under section 504.1613, the cooperative association shall also set forth the total amount of business transacted, number of members, total expense of operation, total amount of indebtedness, and total profits or losses for each calendar or fiscal year of the two-year period which ended immediately preceding the first day of January of the year in which the report is filed.

A cooperative association which fails to comply with this section before April 1 of the year in which the report is due is subject to a penalty of ten dollars.

[SS15, §1641-r15; C24, 27, 31, 35, 39, §8480; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.22]

97 Acts, ch 171, §26; 2004 Acts, ch 1049, §184, 191, 192

497.23 Exemption from report.

Any corporation organized under the provisions of this chapter after the first day of January shall be exempt from the provisions of section 497.22 for the year in which incorporated, after which it shall, however, be subject to all of the provisions of said section.

[C27, 31, 35, §8480-a1; C39, §8480.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.23]

497.24 List of delinquents.

In the month of April of each year the secretary of state shall prepare a list of all delinquent corporations and file the same in the secretary of state's office.

[C27, 31, 35, §8480-a2; C39, §8480.2; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.24]

497.25 Notice to delinquents.

On or before the first day of May of the year the report is due the secretary of state shall mail to each delinquent association a notice of such delinquency and of the penalties provided in section 497.22.

[C27, 31, 35, §8480-a3; C39, §8480.3; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.25]

97 Acts, ch 171, §27

497.26 Cancellation.

If the biennial report required is not filed and penalties paid on or before the last day of June the secretary of state shall, on the first day of July following, cancel the name of any delinquent corporation from the list of live corporations in the secretary of state's office, and enter such cancellation on the proper records.

[C27, 31, 35, §8480-a4; C39, §8480.4; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.26]

2000 Acts, ch 1022, §6

497.27 Effect of cancellation.

When so canceled the corporate rights of any such corporation shall be forfeited and its corporate period terminated on the date such cancellation shall have been entered on the records of the secretary of state's office.

[C27, 31, 35, §8480-a5; C39, §8480.5; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.27]

497.28 Reinstatement of corporation.

Any corporation whose corporate rights have been canceled and forfeited in the manner provided herein may, however, before September 1 following such cancellation, make application to the secretary of state for reinstatement and upon being furnished good and sufficient reasons for not having filed its report the secretary shall, upon the filing of such report and the payment of the penalty, reinstate said corporation and the decree of cancellation shall be annulled and the corporation shall be entitled to continue to act as a corporation for the unexpired portion of its corporate period as fixed by its articles of incorporation and the limitations prescribed by law.

[C27, 31, 35, §8480-a6; C39, §8480.6; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.28]

497.29 Chapter extended to former companies.

All cooperative corporations, companies, or associations heretofore organized and doing business under prior statutes, or which have attempted to so organize and do business, shall have the benefit of all the provisions of this chapter and be bound thereby, on filing with the secretary of state, amended and substituted articles of incorporation drawn in accordance with the provisions of this chapter and a written declaration, signed and sworn to by the president and secretary to the effect that said cooperative company or association has by a

majority vote of its stockholders decided to accept the benefits of and to be bound by the provisions hereof.

[SS15, §1641-r16; C24, 27, 31, 35, 39, §8481; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.29]

94 Acts, ch 1055, §12

497.30 Use of term “cooperative” restricted.

No corporation or association organized after July 4, 1915, shall be entitled to use the term “cooperative” as part of its corporate or other business name or title, unless it has complied with the provisions of this chapter, and any corporation or association violating the provisions of this section may be enjoined from doing business under such name at the instance of any stockholder of any association legally organized under the provisions of this chapter.

[SS15, §1641-r17; C24, 27, 31, 35, 39, §8482; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.30]

497.31 Use of funds.

None of the funds of any association organized under the provisions of this chapter shall be used in the payment of any promotion; as commissions, salaries or expenses of any kind, character, or nature whatsoever.

[SS15, §1641-r18; C24, 27, 31, 35, 39, §8483; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.31]

497.32 Private property exempt.

The private property of the stockholders shall be exempt from execution for the debts of the corporation.

[SS15, §1641-r19; C24, 27, 31, 35, 39, §8484; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §497.32]

497.33 Personal liability.

Except as otherwise provided in this chapter, a director, officer, employee, or member of the corporation is not liable on the corporation’s debts or obligations and a director, officer, member, or other volunteer is not personally liable in that capacity, for a claim based upon any action taken, or any failure to take action in the discharge of the person’s duties, except for the amount of a financial benefit received by the person to which the person is not entitled, an intentional infliction of harm on the corporation or its members, or an intentional violation of criminal law.

87 Acts, ch 212, §6; 2003 Acts, ch 66, §11; 2004 Acts, ch 1086, §80

497.34 Indemnification.

A cooperative association operating under this chapter may indemnify any present or former director, officer, employee, member, or volunteer in the manner and in the instances authorized in sections 490.850 through 490.859, provided that where sections 490.850 through 490.859 provide for action by shareholders the sections are applicable to action by voting members of the cooperative association, and where sections 490.850 through 490.859 refer to the corporation organized under chapter 490 the sections are applicable to the cooperative association organized under this chapter, and where sections 490.850 through 490.859 refer to the director the sections are applicable to a director, officer, employee, member, or volunteer of the cooperative association organized under this chapter.

88 Acts, ch 1170, §6; 94 Acts, ch 1023, §62; 2002 Acts, ch 1154, §104, 125

497.35 Statement to estate of stockholder.

The board of directors, upon receiving actual notice of a stockholder’s death, shall provide a statement to the administrator or executor of the stockholder’s estate, or to the attorney representing the stockholder’s estate. The statement shall describe agricultural products owned by the stockholder which are in the possession of the association.

This section shall not require an association to conduct a search of the status of its

stockholders. The association shall exercise reasonable diligence in determining to whom the statement must be delivered. The statement shall be delivered to the administrator, executor, or attorney, within thirty days following a determination as to whom the statement must be delivered. A statement is not required to be prepared or delivered, if the association is not notified of the stockholder's death within one year after the date of death, or by the date that the stockholder's estate is closed, whichever is later.

91 Acts, ch 230, §1