

HOUSE RESEARCH

Bill Summary

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Overview

This bill provides generally for the organization of business entities in Minnesota as cooperatives.

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- 1 Citation.** Titles the bill the "Minnesota Cooperative Associations Act."
- 2 Definitions.** Defines terms including "address," "cooperative," "member," and "patron member."
- 3 Reservation of right.** Provides that the state may alter the provisions of the chapter in the future.
- 4 Use of term cooperative restricted.** Limits who may use the term "cooperative" to those businesses that have complied with this act.
- 5 Filing fees.** Provides that the filing fee under this chapter is generally \$35.
- 6 Registered office and agent.** Requires cooperatives to maintain an office and an agent for service of process. Outlines the process for filing and changing the registered office or agent.
- 7 Periodic registration.** Requires cooperatives to register with the secretary of state every two years in the odd-numbered year. Outlines the requirements for notice of the registration obligation, the form on which it will be submitted, an penalties for failure to register, including involuntary dissolution.
- 8 Legal recognition of electronic records and signatures.** Provides generally for the enforceability and recognition of electronic signatures and records.
- 9 Foreign cooperatives.** Provides that within the bounds of the Minnesota Constitution, foreign cooperatives are governed by the rules under which they are organized. Provides for the secretary of state to issue certificates of authority to foreign cooperatives to allow them to

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operate in the state. Also calls for the foreign cooperative to maintain a registered agent in Minnesota and report certain changes in the agent's name or address to the secretary of state. Requires foreign cooperatives to reregister every two years. Prohibits foreign cooperatives from doing business in the state without going through this process.

- 10 **Organizational purpose.** Outlines permissible lawful purposes, but does not limit lawful purposes for which cooperatives may be organized to those listed.
- 11 **Organizers.** Provides that cooperatives may be organized by one or more adult natural persons, who may act for themselves or on behalf of entities. The organizers do not need to be members. Provides for the organizers to have certain duties in establishing the cooperative, including electing the first board or acting as interim directors themselves. Requires an organizational meeting after the articles of organization are filed.
- 12 **Cooperative name.** Requires cooperatives to have names that distinguish them from existing entities.
- 13 **Articles of organization.** Provides for what information has to be included in articles of organization. Requires them to be filed with the secretary of state, with a \$60 filing fee. Provides that the cooperative is presumed to be established when the articles are filed.
- 14 **Amendment of articles.** Provides for the process of amending the articles of organization.
- 15 **Amendment of organizational documents to be governed by this chapter.** Provides for the manner in which other business entities in Minnesota or entities outside Minnesota may amend their organizational documents to conform to this act and therefore act as cooperatives in Minnesota.
- 16 **Curative filing.** Allows the secretary of state to authorize and receive curative filings in the event of filing errors. Provides for a \$500 filing fee for these filings.
- 17 **Existence.** Provides that a cooperative comes into existence from when the articles are filed and to exist perpetually unless its articles provide otherwise.
- 18 **Bylaws.** Requires bylaws, and states requirements as to their contents. Provides for their adoption and amendment. Provides special processes for bylaws changing quorum or voting requirements for members or directors. Provides for emergency bylaws.
- 19 **Cooperative records.** Requires cooperatives to keep certain permanent records, including meeting minutes, accounting records, and others.
- 20 **Powers.** Speaks generally to a cooperative's powers as an entity, including the power to deal in products, to contract with members, to hold property, to erect buildings, to issue bonds and loan and borrow money, to make advances to patrons, to accept donations, to pay pensions and retirement allowances to its officers and employees, and to have ownership interests in other entities.
- 21 **Emergency powers.** Provides a cooperative with certain powers in the event of a catastrophe that prevents a quorum from meeting.
- 22 **Agricultural product marketing contracts.** Provides cooperatives with the authority to execute marketing contracts. Regulates these contracts as to their provisions and form, and provides damages for breach of the agreement.
- 23 **Board governs cooperative.** Provides that the cooperative is governed by its board, rather than by any individual director.
- 24 **Number of directors.** Requires cooperatives to have at least five directors, except that ones with 50 or fewer members only must have three or more.
- 25 **Election of directors.** Provides the process for electing the first and subsequent boards. Requires a majority of the directors to be members. Provides for the terms of directors and the manner in which they may resign. Outlines processes for vote by mail or alternative

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ballot.

- 26 **Filling vacancies.** Provides for filling board vacancies.
- 27 **Removal of directors.** Outlines the grounds and process for removing directors.
- 28 **Board of directors' meetings.** Provides for the place of meetings, the process for calling meetings and giving notice, waiver of notice, the treatment of absent directors,
- 29 **Quorum.** Provides that a majority of directors is a quorum, but allows a larger or smaller portion if provided by the articles or bylaws. Explains how meetings are conducted and business is transacted given the presence or absence of a quorum.
- 30 **Act of board of directors.** Provides for what constitutes action by the board of directors.
- 31 **Action without a meeting.** Allows actions to be taken by written action signed by all of the directors, or by a lesser number as permitted by the bylaws or articles.
- 32 **Audit committee.** Requires the board to establish an audit committee to review financial information and reports of the cooperative.
- 33 **Committees.** Generally allows the board to approve resolutions establishing committees to manage given portions of the cooperative's operations. Provides for requirements for committee meetings and operations.
- 34 **Standard of conduct.** Requires directors to exercise good faith and ordinary care. Provides that directors are entitled to rely on certain representations made to them by officers, employees, or other individuals. Allows directors' personal liability to the cooperative or members for breach of fiduciary duty to be limited in the bylaws or articles, but provides that liability for certain types of breach remains in any event.
- 35 **Director conflicts of interest.** Outlines when directors are and are not deemed to have conflicts of interest, and provides procedures to be followed when conflicts arise.
- 36 **Limitation of director's liability.** Outlines the ways in which directors' liability may and may not be limited.
- 37 **Indemnification.** Provides for the circumstances in which cooperatives must indemnify persons who acted in an official capacity for the cooperative. Includes consideration of advances for the person's attorney fees. Allows the bylaws or articles to prohibit or limit indemnification, however.
- 38 **Officers.** States what officers a cooperative is required to have.
- 39 **Members.** Requires a cooperative to have at least one member. Provides for the grouping of members in some cases, discusses member violations of the bylaws, articles, or other agreements. Allows members to inspect records.
- 40 **Member not liable for cooperative debts.** Provides that members are not liable for the debts of the cooperative.
- 41 **Regular members' meetings.** Provides for annual meetings unless the articles or bylaws provide otherwise. Provides for the details of such meetings, including notice and location.
- 42 **Special members' meetings.** Provides for the way these meetings may be called and conducted.
- 43 **Certification of meeting notice.** Certificates are to be issued to keep records of notice being given of meetings.
- 44 **Quorum.** Provides for what is a quorum at a members' meeting.
- 45 **Remote communications for members' meetings.** Allows remote meetings, and lays out requirements for how they may be conducted.
- 46 **Act of members.** Provides for how members take actions by vote.
- 47 **Action without a meeting.** Allows members to act in writing or by electronic communication. Provides procedures.

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- 48 Member voting rights.** Explains the voting rights of members, including patronage voting where applicable.
- 49 Patron member voting based on patronage.** Allows patron members an additional vote as provided by the articles or bylaws.
- 50 Voting rights.** Generally provides for voting rights of members and the manner of voting.
- 51 Voting by organizations and legal representatives.** Provides for voting mechanisms for members that are entities.
- 52 Proxies.** Outlines the process for proxy voting and appointment.
- 53 Sale of property and assets.** Provides for when member approval is and is not needed for sale of a cooperative's assets.
- 54 Vote of ownership interests held by cooperative.** Allows a cooperative that holds ownership interests in another entity to appoint someone to represent its interests.
- 55 Membership interests.** Provides for the issuance, increase, decrease, and alteration of membership interests in a cooperative, including patron membership interests.
- 56 Assignment of financial rights.** Generally allows a member's financial rights to be transferred, but outlines restrictions and requirements for assignment or other transfer.
- 57 Nature of a membership interest and statement of interest owned.** Provides that a membership interest is personal property, and that property of the cooperative belongs to the cooperative as an entity. Entitles members to a statement from the cooperative of their membership interest. Provides for the rights of a member's judgment creditor. Provides for the powers of the estate of a deceased or incompetent member.
- 58 Certificated membership interests.** Provides that membership interests can be certificated or uncertificated, and provides for the issuance and form of certificates where applicable.
- 59 Lost certificates; replacement.** Authorizes the replacement of lost certificates.
- 60 Restriction on transfer or registration of membership interests.** Provides that restrictions on transfer may be stated in the bylaws or articles, by resolution, or in certain other manners. Prohibits restrictions that are manifestly unreasonable.
- 61 Authorization, form, and acceptance of contributions.** Allows directors to authorize the acceptance of contributions. Sets out permissible forms for contributions. Provides for valuation of contributions.
- 62 Restatement of value of previous contributions.** Requires the board to restate the value of old contributions when it accepts a new contribution. Sets out restatement methods.
- 63 Contribution agreements.** Provides that contribution agreements are enforceable in certain circumstances, and outlines requirements for their creation and terms.
- 64 Contribution rights agreements.** Generally permits these agreements. Requires them to be in writing and outlines required elements.
- 65 Allocations and distributions to members.** Provides that the bylaws must prescribe the allocation of profits and losses between patron membership interests and other membership interests. Also provides that the bylaws shall provide for the distribution of cash or other assets of the cooperative among members. Generally, in both cases, if the bylaws do not otherwise provide, distributions are made according to the capital contributed.
- 66 Allocations and distributions to patron members.** Allows a cooperative to set aside a portion of net income allocated to patron membership interests in order to maintain a reserve. Sets out limits on the reserve. Provides for distributions to patron members.
- 67 Member control agreements.** Provides for the form and execution of member control agreements. Basically, these are agreements that allow members to make arrangements among themselves for certain operations of the cooperative.

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- 68** **Distribution of unclaimed property.** Provides for procedures to disburse unclaimed property of the cooperative that would otherwise be returned to the state. Allows the cooperative to give it to a tax-exempt entity or organization instead.
- 69** **Merger and consolidation.** Generally allows merger or consolidation of cooperatives, and requires a written plan for this to be accomplished. Provides for the effect of a merger.
- 70** **Merger of subsidiary.** Allows the merger of a cooperative's subsidiary or a cooperative that is a subsidiary. Requires articles of merger to be prepared.
- 71** **Merger to effect a holding company reorganization.** Outlines the procedures for a merger involving a parent constituent cooperative with or into a subsidiary constituent cooperative to create a holding company.
- 72** **Division.** Provides for the division of a cooperative into multiple entities, which may or may not be cooperatives. Requires a plan of division, which must be approved by the members.
- 73** **Entity interest exchange.** Allows cooperatives and other entities to exchange interest without either ceasing to exist.
- 74** **Conversion.** Provides procedures under which a cooperative can convert to a different type of business entity.
- 75** **Domestication.** Provides for how cooperatives, including foreign cooperatives, can domesticate.
- 76** **Abandonment.** Allows for abandonment of certain plans to merge, domesticate, or take other actions, and provides procedures for filing notice of the abandonment.
- 77** **Methods of dissolution.** Provides that a cooperative may be dissolved by the members or by court order.
- 78** **Winding up.** Provides procedures for collecting and paying debts, transferring assets, making distributions to members, and other actions required when a cooperative is dissolved.
- 79** **Revocation of dissolution proceedings.** Allows proceedings to be revoked, and provides procedures for doing so.
- 80** **Statute of limitations.** Provides that claims against dissolving cooperatives generally are barred after two years after notice of the intent to dissolve is filed.
- 81** **Articles of dissolution.** Provides for filing of these articles, and provides for their contents.
- 82** **Application for court-supervised voluntary dissolution.** Allows cooperatives, or in some cases their members or creditors, to apply to have dissolution proceedings supervised by the court.
- 83** **Court-ordered remedies or dissolution.** Provides the relief that is available where a court orders dissolution, and provides for when the court may do so.
- 84** **Procedure in involuntary or court-supervised voluntary dissolution.** Provides court procedures.
- 85** **Receiver qualifications and powers.** Provides for receivership, including the qualifications and powers of the receiver.
- 86** **Dissolution action by attorney general; administrative dissolution.** Allows the attorney general to file an action to have a cooperative dissolved in some cases.
- 87** **Filing claims in court-supervised dissolution proceedings.** Provides court procedures.
- 88** **Discontinuance of court-supervised dissolution proceedings.** Allows discontinuance where the cause for dissolution is established not to exist.
- 89** **Court-supervised dissolution order.** Provides for the conditions and filing of the order.
- 90** **Filing court's dissolution order.** Provides filing procedures.
- 91** **Barring of claims.** Bars certain claims by creditors that are not properly and timely filed.
- 92** **Right to sue or defend after dissolution.** Provides that after a cooperative has been

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dissolved, its former officers, directors, and members may assert or defend claims by or against the cooperative.

Article 2
Overview

This article makes a small number of conforming changes provides an exemption for cooperatives selling securities.

- 1 1** **Sale; sell.** Adds references to cooperatives to existing securities law.
- 2 2** Adds references to cooperatives to existing securities law.
- 3 3** Provides an exemption for cooperatives selling securities.